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COSTELLO

ROYAL COMMISSION OF INQUIRY INTO CERTAIN  
DEATHS AT THE HOSPITAL FOR SICK CHILDREN AND  
RELATED MATTERS.

Hearing held  
8th floor  
180 Dundas Street West  
Toronto, Ontario

The Honourable Mr. Justice S.G.M. Grange  
P.S.A. Lamek, Q.C.  
E.A. Cronk  
Thomas Millar

Commissioner  
Counsel  
Associate Counsel  
Administrator

Transcript of evidence  
for  
February 2, 1984

VOLUME 97

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X Forster  
Beland  
Blah  
Labow  
Young  
Gunn  
Tobias  
Graham  
Sykes  
Etc.





ROYAL COMMISSION OF INQUIRY INTO CERTAIN  
DEATHS AT THE HOSPITAL FOR SICK CHILDREN  
AND RELATED MATTERS.

Hearing held on the 8th Floor,  
180 Dundas Street West, Toronto,  
Ontario, on Thursday, the 2nd  
day of February, 1984.

- - - - -

THE HONOURABLE MR. JUSTICE S.G.M. GRANGE - Commissioner  
THOMAS MILLAR - Administrator  
MURRAY R. ELLIOT - Registrar

- - - - -

APPEARANCES:

P.S.A. LAMEK, Q.C.)	Commission Counsel
E. CRONK )	
L. CECCHETTO	Counsel for The Attorney General and Solicitor General of Ontario (Crown Attorneys and Coroner's Office)
I.J. ROLAND	Counsel for The Hospital for Sick Children
D. YOUNG	Counsel for The Metropolitan Toronto Police
K. CHOWN	Counsel for numerous Doctors at The Hospital for Sick Children
B. SYMES	Counsel for the Registered Nurses' Association of Ontario and 35 Registered Nurses at The Hospital for Sick Children





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APPEARANCES: (Continued)

D. BROWN	Counsel for Susan Nelles - Nurse
E. FORSTER)	Counsel for Phyllis Trayner - Nurse
P. RAE )	
M. ROSENBERG	Counsel for Sui Scott - Nurse
J.A. OLAH	Counsel for Janet Brownless - R.N.A.
B. JACKMAN	Counsel for Mrs. M. Christie - R.N.A.
S. LABOW	Counsel for Mr. & Mrs. Gosselin, Mr. & Mrs. Gionas, Mr. & Mrs. Inwood, Mr. & Mrs. Turner, Mr. & Mrs. Lutes, and Mr. & Mrs. Murphy (parents of deceased children)
F.J. SHANAHAN	Counsel for Mr. & Mrs. Dominic Lombardo (parents of deceased child Stephanie Lombardo); and Heather Dawson (mother of deceased child Amber Dawson)
W.W. TOBIAS	Counsel for Mr. & Mrs. Hines (parents of deceased child Jordan Hines)
J. SHINEHOFT	Counsel for Lorie Pacsai and Kevin Garnet (parents of deceased child Kevin Pacsai)





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/BN/ak

1  
2 --- Upon commencing at 10:00 a.m.

3 MARY COSTELLO, Resumed

4 THE COMMISSIONER: Yes.

5 MS. FORSTER: Mr. Commissioner, I  
6 wonder if I might be permitted to ask this witness  
7 a few questions arising out of the evidence she gave  
8 Mr. Hunt and Mr. Percival yesterday. I will be very  
9 brief. I have spoken to Mr. Roland and he says he  
10 has no objection if I go ahead of him.

11 THE COMMISSIONER: Yes, all right.

12 MS. SYMES: Mr. Commissioner, could  
13 I just make one statement before Ms. Forster begins  
14 because it does not arise out of any questions anyone  
15 has asked.

16 At the in-camera session,  
17 Mr. Commissioner, you made a ruling with respect to  
18 the admissibility of certain evidence, and Ms. Cronk,  
19 based on that ruling, asked a series of questions  
20 of this witness extremely fairly and in accordance  
21 with that ruling, and established the basis for this  
22 witness' statement to the police on June 17th, 1982.  
23 You made a comment with respect to that in response  
24 to Ms. Cronk yesterday. The statement ---

25 THE COMMISSIONER: This is so subtle  
that I am beginning to lose track.







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MS. SYMES: It is a statement that Ms. Costello had said that she had made to the police with respect to her feelings when she went to the meeting of March 23rd at Liz Radojewski's house.

THE COMMISSIONER: Yes.

MS. SYMES: And Ms. Cronk fairly put the questions to her and got the answers and made the argument to you with respect to whether or not this evidence should go in because, first of all, there was no independent foundation for this witness' feelings other than what she had been told in the meeting that afternoon and that it was extremely prejudicial, if you want to use the word sensational, with respect to other aspects.

The reporting with respect to those statements only puts in the statement without any of the basis on which it was made, which of course was the very concern about those kinds of statements going in.

THE COMMISSIONER: Well, I cannot tell reporters how to do their job. Do you think it is not a complete report, is that the idea?

MS. SYMES: Exactly, sir. I am simply making the statement that the reporting was





1  
2 less than ---

3 THE COMMISSIONER: But you are not  
4 asking me to do anything about it, or are you?

5 MS. SYMES: Except that your ruling  
6 with respect to the ---

7 THE COMMISSIONER: No, my ruling  
8 was that the evidence would not go in at all and under  
9 certain circumstances because I knew and you knew  
10 and everybody knew that if the evidence went in, a  
11 good reporter would be bound to publish it.

12 MS. SYMES: Without qualifications  
13 is of course the answer.

14 THE COMMISSIONER: Well, that is it,  
15 yes. I cannot tell them how to do it. I cannot  
16 tell them what part of the evidence -- I can  
17 eventually tell them what part I consider important,  
18 but I cannot tell them which part they must consider  
19 important and which part they must publish.

20 I would like, in many instances, if  
21 there is no basis whatever for the statement, to keep  
22 it out, but once it is in, the reporters have to  
23 make whatever use they think is appropriate of it.

24 MS. SYMES: Mr. Commissioner, it is  
25 obvious that this public inquiry goes well beyond  
this room, and in fact, the concern is that people







1  
2 are being tried in the press with respect to their  
3 actions and the basis of the concern with respect  
4 to the statements is that ---

5 THE COMMISSIONER: I know, but that  
6 was the reason why I said that there had to be a  
7 basis for it before the statement could even be  
8 admitted. But once there is a basis of some sort  
9 and the statement comes out, I cannot prevent -- I  
10 cannot do anything about the publishing of it. That  
11 was what the whole in-camera session was about, to  
12 try to prevent this evidence coming out, knowing that  
13 if it came out it would be published.

14 MS. SYMES: Mr. Commissioner, the  
15 basis was firmly established.

16 THE COMMISSIONER: Yes, but the  
17 time to take objection is when the evidence is about  
18 to come out, not after it has come out and then  
19 complain about the -- I can understand your feelings  
20 on this, but we must understand that they are doing  
21 their job, we are doing ours. Our job is to make  
22 sure that the evidence has got some relevance, some  
23 value before we put it in. But once it is in, we  
24 cannot tell them what they are supposed to do with it.

25 MS. SYMES: No, I appreciate that,  
Mr. Commissioner, but Mr. Brown and Ms. Forster both







1  
2 made the objections yesterday and ---

3 THE COMMISSIONER: Yes, but I  
4 allowed it in for reasons that were, I thought,  
5 obvious at the time.

6 MS. SYMES: Mr. Commissioner, I  
7 guess today we see the harm with respect to that kind  
8 of ---

9 THE COMMISSIONER: I saw the harm  
10 long ago. I am not being educated at all on this.

11 All right, thank you. But just before  
12 I refuse your request, I would like to know what the  
13 request is.

14 MS. SYMES: The request is simply  
15 to make a statement that the reporting of it in the  
16 mass media is not the fact that this witness qualified  
17 the statement and gave the basis, which would have  
18 been fair and reasonable to have done.

19 THE COMMISSIONER: That would be a  
20 terrible precedent. I would then have to review every  
21 report and say that I do not think much of this one,  
22 I think a great deal of that one, and I would get  
23 into a terrible amount of trouble. So I do not  
24 think I will.

25 Thank you, though, for the suggestion.  
All right, now, Ms. Forster.





MS. FORSTER: Thank you, sir.

FURTHER CROSS-EXAMINATION BY MS. FORSTER:

Q. Ms. Costello, you told Mr. Hunt and Mr. Percival yesterday that you had given a statement to the police in which is stated that you felt there was a murderer in Liz's house; is that correct?

A. Something along that line, yes.

Q. Do I understand that the only basis on which you had that feeling was that you knew that the homicide squad was investigating certain deaths at the Hospital?

A. Very much so, yes.

Q. You also indicated that at the meeting at Liz's house you could not look at Phyllis Trayner or Susan Nelles; is that correct?

A. Yes.

Q. I take it that at the time you made the statement to Liz and subsequently to the police -- or excuse me, to the police, the only two members of the team that you recall being at the meeting at Liz's house were Phyllis Trayner and Susan Nelles; is that correct?

A. Yes.

Q. I take it that from the fact







1  
2 that you had to read out a certain portion of your  
3 assignment book and Liz had to read out a certain  
4 portion of hers to the police and from the fact that  
5 Sergeant Warr had mentioned something about a pattern  
6 in the deaths that you knew that the Trayner team  
7 was at least being investigated by the police; is  
8 that true?

9 A. Yes.

10 Q. From the time you met with the  
11 police on March 23rd until you gave the statement in  
12 June of 1982, I take it you were not interviewed by  
the police at all?

13 A. No, I saw them but I was not  
14 interviewed by them except -- no, I was not inter-  
15 viewed by them. I was questioned by the Crown  
16 Attorney at the preliminary hearing.

17 Q. That was at the preliminary  
18 hearing though?

19 A. That is the only -- and that  
20 was not police, that was Crown Attorney.

21 Q. And you were not questioned  
22 by the Crown Attorney before the preliminary?

23 A. No.

24 Q. You were prepared to co-operate  
25 with the police, were you not?





1  
2  
3 A. Yes, very much so.

4 Q. If at any time you had any  
5 reason at all to suspect that either Phyllis Trayner  
6 or Susan Nelles was responsible for the deaths of  
7 any of those babies, you would have told the police,  
8 would you?

9 A. I surely think I would, and I  
10 thought that I would have been morally and perhaps  
11 even criminally negligent if I had not.

12 MS. FORSTER: Thank you very much.  
13 Thank you, sir.

14 THE COMMISSIONER: All right, thank  
15 you, Ms. Forster. Now, Mr. Roland.

16 CROSS-EXAMINATION BY MR. ROLAND:

17 Q. Ms. Costello, my name is Ian  
18 Roland and I act for the Hospital. I just have two  
19 short questions for you.

20 The first has to do with the evidence  
21 you gave the other day concerning complaints that you  
22 overheard by nurses about doctors that they sometimes  
23 came, at the request of the nurse, to examine a baby  
24 who the nurse thought needed looking at by a  
25 doctor and the doctor indicated that there was at  
least nothing needed to be done at the moment about  
the baby's condition, would go away and then the







1  
2 baby would arrest within a short period of time, at  
3 least, a matter of minutes or at least a short  
4 period of time later, and you could only give us on  
5 example about that, and that was Baby Adamo.

6 I have had a look at the chart of  
7 Baby Adamo, and it is an exhibit in these proceedings,  
8 Exhibit 68, and it shows on page 35 that Baby Adamo  
9 was being fed by Nurse Trayner, in fact, she passed  
10 a nasal gastric tube into Baby Adamo to assist in the  
11 feeding of the baby and that at that stage the baby  
12 went into a seizure-like activity and a Code 23 was  
13 called, and then a Code 25 subsequently. There  
14 seems to be no indication at all in the record, at  
15 least, the chart, that indicates that a doctor had  
16 visited just briefly before or that nothing occurred  
17 immediately before the arrest, that the arrest simply  
18 came out of the condition of the baby. Rather, it  
19 seems to indicate that the arrest was coincidental  
20 with Nurse Trayner passing a nasal gastric tube.

21 We have heard from the medical experts,  
22 I think Dr. Hastreiter and others, that one of the  
23 reasons that Baby Adamo may have arrested at the time  
24 he did was because of the nasal gastric tube stimu-  
25 lating the vagal nerve. So that there does not seem  
to be, at least from the evidence we have heard and





1  
2 the chart, any indication that the kind of complaint  
3 that you have told us about relates to Baby Adamo's  
4 case, and I wonder, do you have any other information  
5 you could tell us about Baby Adamo's situation that  
6 gives some legitimacy to this complaint?

7 A. Perhaps what happened, it was  
8 at the meeting of October 23rd that we talked about  
9 Baby Adamo's death and a bit at the meeting we had  
10 on October 22nd, and perhaps I read into what people  
11 were saying that this frequently happens to us, that  
12 we are feeling insecure and one of the reasons is  
13 that when we call the doctors they are not perceiving  
14 that something is wrong. Therefore, we feel that they  
15 are questioning our judgment, and that we would be  
16 more secure if they would really believe us as soon  
17 as we called them about a sick baby. Maybe that  
18 would help us to prevent this baby going on to the  
19 point of an arrest. They were talking about that  
20 generally.

21 They were also talking about their  
22 great upset in relation to Baby Adamo's death, and  
23 maybe I put the two facts together when I should not  
24 have, but this was said in more than one meeting in a  
25 general way.

Q. We have heard that it has been







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said in a general way, and you were asked about a  
specific example and you suggested Baby Adamo. We  
seem to have put that to rest as a legitimate  
example, at least from what we can tell from the  
chart and the evidence we have heard.

7

Are there any other examples or  
any other babies that you can point us to?

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BmB.jc  
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A. I think if I tried to do that I am going to put my foot in my mouth again because I am going to be trying to put general discussion to somebody's name.

Q. All right. So, although you have heard the general discussion, apart from the general discussion you have no example you can give us that gives some concrete legitimacy to the complaint?

A. No, but I think people who worked nights will have.

Q. I see. All right, we will leave it to them I guess and hear from them if they have that complaint.

The second matter I want to deal with is Baby Hines. When you were cross-examined you were asked about what you knew about an argument between Susan Nelles and Phyllis Trayner during the arrest procedure concerning Baby Hines and, in particular, in reference to a pacemaker. As I understand it, Baby Hines arrested on 4B?

A. Yes.

Q. And you being the Head Nurse on 4B I take it would hear directly from your own team about that arrest?







B.2

1

2

A. I did.

3

4

Q. Yes, and about the course of  
the arrest, did they tell you about it?

5

A. Yes.

6

7

8

9

Q. And if anything unusual did  
occur in the course of that arrest that was  
significant that your own team I gather thought  
would be significant, they would tell you about it,  
wouldn't they?

10

A. I think they would.

11

12

Q. And they didn't tell you about  
any argument between Nurses Trayner and Nelles?

13

A. No, they did not.

14

15

16

17

18

Q. All right. Can we assume then  
that if there was such an argument it certainly  
wasn't treated as of any significance or consequence  
by the members of your team because if they had  
treated it as significant or of some consequence  
they would have told you about it?

19

A. I would hope they would.

20

21

22

Q. Yes. You have heard about I  
gather in the past if something significant or of  
consequence happened during an arrest, you would hear  
about it, you have heard about it?

23

A. Yes.

24

25





B.3

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Q. Yes.

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THE COMMISSIONER: Tell me, I don't quite understand why both Susan Nelles and Phyllis Trayner were at this arrest. What happens in an arrest. Is it an arrest team, does that mean that all the nurses from the other wards ---

THE WITNESS: The arrest team doesn't mean nurses really at all, it means the anaesthetist, the associate resident, surgical resident and that's about all continuously, plus the Emergency Department they deliver the defibrillator and the cart. But it is true that all the nurses on the ward, on either ward, go to help, to see what help is needed.

THE COMMISSIONER: Do they?

THE WITNESS: And then decide among them who needs to stay in the room, who needs to look after the other patients on the ward, who needs to make calls to doctors, parents.

THE COMMISSIONER: It doesn't surprise you that both Phyllis Trayner and Susan Nelles from the other ward were involved in the resuscitation of this baby?

THE WITNESS: No, it doesn't. Often the RN's would go to help and the RNA's would look after the ward. The nursing supervisors would come







B.4

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2

and see what was needed and if the RNA's needed help  
and if the people at the arrest situation needed help.

4

MR. ROLAND: Q And we know with  
respect to the Hines' arrest that Susan Nelles was  
on relief on 4B that shift in any event?

6

7

A I'm sorry, I got lost. What  
was the patient's name?

8

9

Q Hines, we are talking about  
Jordan Hines.

10

11

A I can't tell you that for sure  
without looking at something.

12

13

Q Well, that information I gave  
is supposed to be inaccurate.

14

15

MS. CRONK: Just so the record is  
clear, I think Ms. Symes has indicated it was Sui  
Scott who was on relief on 4B.

16

17

MR. ROLAND: All right.

18

19

THE COMMISSIONER: The 8th of March.

MS. CRONK: It would be the 7th, the  
long night shift of the 7th.

20

21

THE COMMISSIONER: The long night  
shift of the 7th.

22

MR. OLAH: Mr. Commissioner, Ms. Nelles  
was in charge that night on 4A.

23

24

THE COMMISSIONER: Miss Nelles was,  
what, in charge?

25





B.5

1

2

MR. OLAH: Was the team leader on 4A

3

that night.

4

THE COMMISSIONER: And where was

5

Mrs. Trayner?

6

MR. OLAH: Mrs. Trayner was in Room

7

418 and Mrs. Scott was relief, as Ms. Cronk has

indicated, on 4B.

8

THE COMMISSIONER: This is the 18th,

9

is it, of March? No, what date in March is it?

10

THE WITNESS: Excuse me, Ms. Symes,

11

I think I left my WIN sheets with you or somewhere.

12

THE COMMISSIONER: I am sorry, what

13

did you say, Mr. Olah?

14

MS. SYMES: The assignment books, sir,

15

for that night show that Miss Nelles was in charge of

16

4A, Mrs. Trayner was on, Miss Scott was sent to 4B.

17

THE COMMISSIONER: Mrs. Trayner was

18

on what?

19

MS. SYMES: On 4A, sir.

20

THE COMMISSIONER: On 4A?

21

MS. SYMES: Yes.

22

THE COMMISSIONER: Under Miss Nelles?

23

MS. SYMES: Under Miss Nelles.

24

Miss Scott was sent relief to 4B and Mrs. Christie

25

was on 4B. Those on 4B that night, sir, Miss Halpenny





B.6

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2

is in charge, Miss Reaper is there, Miss Frise.

3

THE COMMISSIONER: Could I have

4

Exhibit 32A?

5

MS. SYMES: Mr. Commissioner, it is

6

on Tab, first of all 13, page 50, page 150, 151.

7

THE COMMISSIONER: Yes, you are quite

right.

8

MS. SYMES: It will be then for

9

Saturday, March 7th, because the baby dies in the

10

early hours of March 8th and on the lower right-hand

11

side shows that Miss Nelles is in charge, Mrs. Trayner,

12

Miss Scott is sent relieving on 4B and Mrs. Christie

13

then is also on 4A.

14

THE WITNESS: I don't have that book,

I'm going to have to remember.

15

MR. ROLAND: Q. Yes, Ms. Costello,

16

you don't have the book, but you have heard the

17

people that were there and we have it that Miss

18

Halpenny was functioning as the team leader on 4B

19

and Miss Nelles was functioning as the team leader

20

on 4A that night and Mrs. Trayner was on duty. The

21

only actually permanently designated team leader on

22

those two wards that night was Mrs. Trayner, isn't

23

it, because Mrs. Halpenny isn't a team leader, she

24

was functioning as one?

25







B.7

1

2

A. She was certainly functioning

3

as one, yes.

4

Q. Yes, but she isn't designated

5

as a team leader on a regular basis?

6

A. No, but she would be considered

7

to be in charge of 4B that night.

8

Q. Exactly. But the point I want

9

to make, and it is not a big point, but the only

10

regular team leader, the only person who carried the

11

title Team Leader on those two wards that night was

Phyllis Trayner?

12

A. Yes.

13

MR. ROLAND: Yes, thank you.

14

THE COMMISSIONER: She carried the

title but she wasn't functioning?

15

MR. ROLAND: She wasn't functioning,

16

we have agreed on that. She wasn't functioning,

17

there were two others functioning as team leaders

18

but the person who had the experience as team leader,

19

the greatest experience as team leader on those two

20

wards that night was Phyllis Trayner, isn't that

fair?

21

THE WITNESS: Yes.

22

MR. ROLAND: Yes.

23

THE COMMISSIONER: Why would she have

24

25





B.8

1

2

been replaced by - if you don't know anything about  
this don't tell me, but does that happen quite often?

4

THE WITNESS: Yes, it could because  
the team leaders need days off.

5

6

THE COMMISSIONER: Well, she's not  
on a day off, she is working.

7

8

THE WITNESS: I'm sorry, I can't see  
that book.

9

10

THE COMMISSIONER: No, here, sorry,  
sorry. There it is there.

11

12

THE WITNESS: What page am I trying  
to look at?

13

14

THE COMMISSIONER: I think it is 151,  
it is right there, right in front of you.

15

16

17

18

19

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25

THE WITNESS: This is 4A. Oh, Miss  
Nelles - I'm sorry, Mrs. Trayner working under Miss  
Nelles. It could have been for several reasons and  
I think I have said that here before. It wasn't  
usual but it could be for the reason that Miss Nelles  
was getting experience in that position, it could be  
that Phyllis was there as her back-up while she got  
it, it could be that Mrs. Trayner had been off the  
night before and Miss Nelles had been team leader  
and was going to take that role through to her next  
day off for consistency.







B.9

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MR. BROWN: Mr. Commissioner, Miss Costello obviously doesn't have direct knowledge of that but I think some of the evidence you will subsequently hear will substantiate what she is saying.

THE COMMISSIONER: Yes, all right, thank you.

Well, I hope I will master it some time. Are you now finished?

MR. ROLAND: Yes, those are my questions.

THE COMMISSIONER: Yes. Miss Chown?

MS. CHOWN: No questions, Mr. Commissioner.

THE COMMISSIONER: Are you going next?

MR. OLAH: Yes I am, Mr. Commissioner.

THE COMMISSIONER: Yes, all right. Does that mean that you have postponed your position or that you have no questions, Miss Jackman?

MS. JACKMAN: It may be that if Mr. Olah goes first I will have no questions.

THE COMMISSIONER: Oh, all right.

CROSS-EXAMINATION BY MR. OLAH:

Q Good morning, my name is John Olah and I act for Janet Brownless who is a Registered Nursing Assistant. Have you got Exhibit 335 before





B.10

1

2

you, the WIN sheets, Ms. Costello?

3

A. I have another version that

4

I think is a copy that Miss Cronk gave me of those

5

WIN sheets.

6

Q. If you would be good enough

7

to turn to August 25th with me, it is page 10 on the

8

sheets if that assists you, Mr. Commissioner, and, in

9

particular, if you would turn back one page to the

10

week previously and if you compare it with the week

11

of August 25th.

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DMrc

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A. Am I looking at 4A, sir?

3

Q. 4A, yes.

4

A. All right.

5

Q. I notice that Miss Brownless'

6

name appears on the sheet dated August 25th on the  
second last line.

7

A. The little figure beside it

8

says "orientation".

9

Q. And I notice that her name

10

is not on the sheet the week previous, and we have

11

had some evidence that in fact her employment started

12

on August 25th and from the WIN sheets would that

13

seem to correspond with that evidence?

14

A. Yes, it would.

15

Q. Now you said that the little  
mark and "O" with a line through it is...?

16

A. Meant orientation, yes.

17

Q. Means orientation, and I

18

notice that during that week, August 25th through to

19

the 31st, she is on days, and I take it that those

20

are ordinary days, not long days?

21

A. Eight-hour days.

22

Q. Those would be eight-hour  
days.

23

A. Yes.

24

Q. And by orientation, ma'am,

25







C2

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does that mean that she would not be on the ward at that time?

A. During that first week she would be there very minimally; she would be mostly in the classroom, although she may go to meet people on the ward and she may spend an hour or so there from time to time.

Q. And would she be supervised if she came down for that brief period of time during orientation?

A. Yes. She probably wouldn't even be working; she would just be looking around or meeting people.

Q. So she really wouldn't have access to the children at all during that period of time?

A. Theoretically she would but she wouldn't have patient assignments.

Q. I notice that the first time that Miss Brownless appears to actually work on the ward is on Tuesday, September 2nd, that is the next sheet.

A. Yes.

Q. And again that is a day shift, but no longer is it orientation?





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A. It is marked as orientation, but by the second week she would be getting her orientation by the teaching team leader on our ward versus in the classroom.

Q. Oh, I see, so it is marked differently this time?

A. No, it is marked the same but I just know from having been there that the second week is not in the classroom.

Q. During that second week she would be actually on the ward and carrying out patient assignments?

A. Most of the time she would be being taught by the teaching team leader; some of the time she might be having an assignment selected by the teaching team leader for learning purposes.

Q. Again she would be closely supervised during that period of time?

A. Yes. She might even be working with someone.

Q. In tandem with someone?

A. Yes.

Q. Now I notice from the WIN sheets that the first time that Miss Brownless starts on long nights is not until September 19, 1980, if you







1

C4

2

turn to the week of the 15th to the 21st .

3

A. That is right.

4

Q. Would you agree with me that  
it is the first time she actually goes on long nights?

5

A. Yes.

6

7

Q. Now from the review of the  
assignment sheets I notice that from time to time  
Miss Brownless worked on 4B as a relief nurse.

8

9

A. Yes, she did.

10

11

Q. So as a result you would have  
been her direct supervisor on occasion when she was  
on during the day?

12

13

A. Yes.

14

Q. And she did work some days  
under you?

15

16

A. I think she did; I couldn't  
name them though.

17

Q. And you knew her?

18

A. Yes, I knew her.

19

20

Q. Now did you know that she had  
just recently come from another hospital?

21

A. Yes, I did.

22

23

Q. And did you know that she had  
no previous cardiac background; that is, she had not  
done any cardiac service prior to her attendance at

24

25





C5

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The Hospital for Sick Children?

3

A. I did know that.

4

Q. And how did you know that?

5

Was it obvious from her lack of knowledge?

6

A. No, it wasn't that. It

7

probably was that those people were not available to

8

be hired; it probably was she was offered to both of

9

us and Liz and I selected who was going to hire who

10

or something like that. Liz would have interviewed

11

her but I may have seen her application form; I can't

say to you know that I had for sure.

12

Q. Now the other nurses, the RNs,

because Miss Brownless is an RNA --

13

A. Yes.

14

Q. -- had been there some period

15

of time?

16

A. Yes.

17

Q. How long had Mrs. Trayner

18

been on that particular ward?

19

A. On 4A, since 4A opened in

20

April 1980.

21

Q. And previous to that she had

been on 5A?

22

A. Yes.

23

Q. So she had had extensive

24

25





C6

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background with pediatric cardiology?

3

A. Coming up to two years I

4

would think.

5

Q. And similarly Mrs. Scott,

6

she had been there some period of time?

7

A. Yes, but not a complete year

8

I don't think.

9

Q. And Miss Nelles had been

10

there some period of time?

11

A. At the beginning of our

12

investigation; not a complete year but longer than  
Miss Brownless.

13

Q. Now, unlike these fairly

14

experienced nurses, Miss Brownless, I take it, had

15

to learn about cardiology and especially when it  
related to pediatric cardiology?

16

A. Very much so.

17

Q. And from your experience of

18

30 years in pediatrics, well, I guess not all 30 years  
is pediatrics?

19

A. Almost.

20

Q. Almost all the 30?

21

A. Yes.

22

Q. From that extensive background

23

how long would it take someone, an RNA, a Registered

24

25







C7

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Nursing Assistant, as opposed to a Registered Nurse, to get a detailed and sophisticated knowledge of cardiology, the kind that, say for instance, from medical records could distinguish a critically ill child as opposed to a non-critically ill child?

A. I don't know that I would ever expect that from an RNA. I think that is a higher expectation than I would have for any RNA with their background of knowledge.

Q. Because you will recall when you were cross-examined by Mr. Hunt and he read a passage from the Atlanta Report to you, what we have talked about is the profile - let me just read that to you. Now, that talks in a little different language. This is based on an assumption that there is someone administering digoxin to these children. One of the criteria in that report suggests, of such an assumed perpetrator, is that that person had enough clinical knowledge to choose victims whose deaths would not initially be considered suspicious. In other words, that person, given that assumption, would have sufficient clinical and cardiological knowledge to be able to distinguish a terminally ill patient from a non-terminally ill patient.

Now, at any point in time during the





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epidemic period, in your opinion, would an RNA, such as Janet Brownless, have that kind of sophistication?

A. Definitely not. I think I said yesterday that I wouldn't even have.

Q. Certainly not a Registered Nursing Assistant?

A. No.

Q. Now, listening to your evidence it is pretty clear that by late August and early September - and let us take the cutoff date of September 2nd, all right - there was some awareness with you that there was an elevation, a marked elevation, in the number of children that were dying on 4A in particular.

A. Yes.

Q. And you also had an awareness, I think you have testified, that these children died in the early hours of the morning?

A. Yes.

Q. And that a particular team; namely, the Trayner team, were on when these deaths occurred?

A. Yes.

Q. And we know that by the morning, the early morning of September 2nd, some







C9 1  
2 12 children had died between June 30th and September  
3 2nd?

4 A. Yes.

5 Q. And to that extent I take  
6 it there was a pattern that seemed to be developing  
7 to that limited extent?

8 A. Yes, considering those three  
9 factors.

10 Q. So that that pattern was  
11 very much in effect when Janet Brownless started on  
12 Ward 4A on the morning of September 2nd; am I correct?

13 A. I was aware those three  
14 factors were in effect then, yes.

15 Q. Now I would like to just  
16 very briefly deal, ma'am, with the medical records  
17 of several children; not the records themselves but  
18 the nursing assignments, to see when Janet Brownless  
19 was on and when she was off.

20 If I could turn you first to the  
21 Hines child, who was discussed already this morning.

22 A. What do you want me to have,  
23 an assignment --

24 Q. I was going to ask you to  
25 have the WIN sheets with you and also the nursing  
assignment documentation, which is Exhibit 32.





C10

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Now, Miss Costello, Jordan Hines died on March 8, 1981, and you will recall that Jordan Hines died on Ward 4B; that was the ward that you were supervising.

A. I was Head Nurse there, yes.

Q. And I understand that the arrest occurred at about 4:10 a.m. You were not there for the arrest?

A. No.

Q. What I would like to ask you is to turn to the nursing assignment sheet which relates to Jordan Hines and which we had just a moment ago, Tab 13, page 151.

A. Yes.

Q. Now page 151, as Ms. Symes has pointed out, is the assignment sheet for the day previous to the death of Jordan Hines; am I correct in that?

A. Yes, but it includes the night period, which goes from 1900 to 0700.

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Q. Correct. Now, I notice that Ms. Brownless appears during the day shift. She appears to have been on during the day shift; am I correct in assessing that?

A. Yes.

Q. And in fact, she was temporarily assigned to 4B between the hours of 3:00 and 7 o'clock in the evening?

A. Yes.

Q. And in particular, I understand that she was with Baby Jordan Hines between those hours?

A. In my book I cannot read that, but -- tell me where the 4B assignment book is and I will be able to read it.

Q. I am not sure we have the 4B sheet, but do you have any knowledge whether in fact Janet Brownless ---

A. Just a minute, I think I can find it.

Q. Can you find it? That would be very helpful.

MS. CRONK: That is Tab 14, sir.

THE COMMISSIONER: Yes, I know.

Page one hundred and something.







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THE WITNESS: Page 119.

MR. OLAH: I obviously have not done my homework, Mr. Commissioner.

THE WITNESS: Yes, I found it.  
It is page 119.

MR. OLAH: Q. Page 119?

A. Yes.

Q. Yes, relief, J. Brownless, RNA?

A. Yes, at the top of the left hand page.

Q. And Hines, 431.

A. Yes.

Q. I am much obliged, thank you, Ms. Cronk.

Now, did you know that Janet Brownless was a friend or had some knowledge of the Hines family?

A. At some time I have known that. I cannot tell you whether it was before that day or after. I think it was after.

Q. Now, in any event, Ms. Brownless finished her shift on 4B at 7 o'clock that evening?

A. Yes, probably officially at 7:45 that evening.

Q. I see. She would not have





1  
2  
3 returned to 4A after 7 o'clock?

4 A. No, she would stay on 4B, and  
5 she would continue to cover the babies. I think  
6 I mentioned to someone in evidence that the report  
7 that is given for a changeover of shift takes about  
8 half an hour.

9 Q. I understand that.

10 A. And the day nurses look after  
11 the patients while the team leader is giving that  
12 report.

13 Q. I see. What I did not under-  
14 stand was because of the notation 7 here, whether  
15 she stayed and reported on 4B or whether she returned  
16 to 4A, but you say she would have reported to the  
17 4B team that took over?

18 A. Well, the team leader would  
19 have reported to them and she would have continued  
20 to look after her children until that report was over,  
21 so that then the night nurses were available to look  
22 after them. I think we wrote 3 to 7 just as a  
23 kind of short form, but it did not mean that.  
24 It probably meant 3:15 to 7:45 if we had been  
25 precise.

Q. But in any event, Ms. Brownless  
would have been off the floor latest at 7:45 that





1  
2 evening?

3 A. Yes, I would think so.

4 Q. But she would not have been  
5 with the baby from 7:15 on, would she?

6 A. Yes, she might have been. I  
7 think what I was trying to explain is while the  
8 team leader from the day shift is giving report to  
9 all of the night shift, somebody has to look after  
10 the babies, and that period is 7:15 to 7:45.

11 Q. So the day shift people stay  
12 on while report is being given to the nurses coming  
13 on duty?

14 A. They do, and there might be  
15 an occasion when they would not all stay, so I  
16 cannot tell you positively she did, but she may have.

17 Q. Fair enough. Now, let us just  
18 move to the WIN sheet to see if this document is  
19 accurate. If we could turn to the WIN sheet, and  
20 we are looking at 4A again, and if your pages are  
21 numbered, sir, it is page 38 of the WIN sheets.

22 THE COMMISSIONER: They may be  
23 numbered but I have not found it yet. If you give me  
24 the date ---

25 MR. OLAH: It is the week of March  
the 2nd to March 8th, sir.







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THE COMMISSIONER: Yes, I have got  
it.

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MR. OLAH: Q. Now, if we drop down  
to Saturday, March the 7th, ma'am and to Ms. Brownless'  
name, do we see that in fact the WIN sheet confirms  
the assignment sheet we just looked at, and that  
in fact Ms. Brownless was on long days that day?

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A. Yes, and that she was the  
latter part of the day in 4B.

Q. In 4B?

A. Yes.

Q. So that confirms that she would  
have started at what time in the morning, 7:15?

A. Yes.

Q. And would have been finished at  
7:45 in the evening?

A. Yes.

THE COMMISSIONER: Is this one of  
these ones where we would have found on the back of ---

THE WITNESS: On the back of 4B's  
you would have found Ms. Brownless' name.

THE COMMISSIONER: I see. But we  
would not find anything on the back of 4A's?

THE WITNESS: No, because it is on  
the front of 4A's, which is where the people's names





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are for the regular payroll.

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THE COMMISSIONER: But they do not say when they were transferred; you do not find that on 4A's?

6

7

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THE WITNESS: I think there is a little line, if you look on Saturday, there is a small line there and I cannot read it too well, but I think it says 4B below the line.

10

11

12

THE COMMISSIONER: I guess it does, yes. Thank you very much.

13

14

15

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17

THE WITNESS: And I think that means the latter part of the day in 4B.

MR. OLAH: Q. I guess the point I am trying to make, Ms. Costello, is if Ms. Brownless was off at 7:45 in the evening and the arrest occurred at 4:10 in the morning, she would have been off something in excess of eight hours before the arrest?

18

19

20

21

A. Yes.

Q. And not only that, as a caring nurse, the nurse having charge of Jordan Hines, she would have had fairly familiar knowledge of Jordan Hines' condition?

22

23

24

25

A. Yes.

Q. Unlike, say, someone on the 4A side, some nurse who would not have ever had charge





1

2

of Jordan Hines and would not really know very much  
about Jordan Hines' condition?

4

A. Yes.

5

6

7

Q. By the way, was Jordan Hines  
considered to be seriously ill on Saturday, March  
the 7th?

8

9

10

11

A. He was not seriously ill, but  
I talked about this and I think I got into a discussion  
with Mr. Grange about the fact that because he had  
apnea he was a potential risk, but no, he was not  
considered seriously ill.

12

13

Q. All right, and that was known  
to the people who were working on the 4B side?

14

A. Yes.

15

16

Q. And that certainly would have  
been known to Ms. Brownless who had charge of Jordan  
Hines?

17

18

19

20

A. Yes.

Q. Let us move on to the Baby  
Pacsai, if I may. Baby Pacsai, ma'am, died on  
March 12th, 1981, again on the 4B side.

21

22

23

24

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A. This is in the morning, yes.

Q. I am sorry, actually he died --  
the arrest was in ICU, but he had been until 6 o'clock  
in the morning in Ward 4B; am I correct in that?







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2  
3 A. Yes, you are. The way this  
4 book is put together I am having difficulty reading  
5 the dates because the rings are over the dates. I  
6 think I have found March 7th and 8th -- no, 12th,  
I think.

7 Q. Am I wrong? It is March the  
8 12th, so then we would be looking at March 11th,  
9 Wednesday, March 11th and I believe it is page 159,  
Tab 13?

10 A. I believe so, but the rings  
11 are right through the date here.

12 THE COMMISSIONER: Tab 13? I have  
13 got Pacsai at Tab 14, page 127.

14 MR. OLAH: That is correct, but I  
15 am looking at where Ms. Brownless is, sir, and the  
16 assignment for Ms. Brownless is to be found at page  
17 159 of Tab 13.

18 Q. Have you located the page I am  
19 talking about, ma'am?

20 A. I have located the page. My  
21 difficulty was that one of these black rings went  
right through the date, but I have page 159 now.

22 Q. All right. Do you see that  
23 Ms. Brownless again, like in the Hines' case, is  
24 on long day?  
25





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A. Yes.

3

Q. And she is on the 4A side?

4

A. Yes.

5

Q. Now, moving to the WIN sheet

6

for that week, that is the week of March 16th to the

7

22nd, sir -- I am sorry, it is the week of March the

8

9th to the 15th, if we look at the 11th of March,

9

Wednesday, March 11th, the WIN sheet confirms the

10

assignment sheet and shows that Ms. Brownless on

that day was on long days?

11

A. Yes.

12

Q. Now, bearing in mind that we

13

have heard that apparently the first symptom of

14

possible digoxin intoxication occurred at 4 o'clock

15

in the morning, Ms. Brownless, by my calculation,

16

would have been off something in excess of eight

hours, eight hours and 15 minutes?

17

A. Yes.

18

Q. Let us then move to the Baby

19

Lombardo. I understand this child died on December

20

the 23rd, 1980; the arrest occurred at 3:20 in the

21

morning and death at 4:20 in the morning. If we

22

can turn to Exhibit 32A, Tab 87, page 179, please.

23

MS. SYMES: Could she be given that

volume, please?

24

25





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THE COMMISSIONER: What is this ---

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4

MR. OLAH: It is Volume 3 -- I am  
sorry, it is Exhibit 32C. I thought you had all  
three volumes, my apology, Ms. Costello.

5

6

THE COMMISSIONER: I am sorry, the  
tab is?

7

8

MR. OLAH: I believe it is Tab 87,  
sir, page 179.

9

10

Q. We are now looking at the  
nursing sheet for Monday, December 22nd, 1980.

11

A. Tell me again the date.

12

13

Q. It says on the top of that  
page Monday, December 22nd. That is Tab 87.

14

15

MS. SYMES: It is at page 178 and  
page 179.

16

17

18

THE WITNESS: The top of my page  
says Wednesday, September 24th. There must be  
something wrong with this book. Monday, December  
the 22nd, yes.

19

20

21

22

MR. OLAH: Q. Now, do you agree with  
me, ma'am, that Ms. Brownless does not appear to have  
worked either the day shift or the night shift on  
that day?

23

A. No, she did not.

24

25

Q. Let us then go to the WIN sheets







1  
2  
3 to see if the WIN sheets confirm that. It is the week  
4 of December 22nd to the 28th, page 28.

5 Would you agree with me, ma'am, that  
6 Ms. Brownless, according to the WIN sheets is noted  
7 as being off that day?

8 A. Yes, she is.

9 Q. Is that her day off; is that  
10 what the line indicates?

11 A. Yes, it does.

12 Q. I would like you to keep that  
13 page open.

14 THE COMMISSIONER: I'm sorry, there  
15 is a line ---

16 MR. OLAH: It is the second last  
17 one.

18 THE COMMISSIONER: It is the 22nd,  
19 yes, all right. Thank you. F2, what would F2 stand  
20 for?

21 THE WITNESS: Floating Holiday No. 2  
22 on the 23rd.

23 MR. OLAH: Q. And H6 would be what,  
24 statutory holiday?

25 A. Yes.

Q. Now, let us just pause there,  
because Sunday, the 28th is the day that Baby Belanger





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dies. So that according to the WIN sheets,  
Ms. Brownless is off also when Baby Belanger arrests  
and dies?

A. Yes.

Q. Let us then go to the nursing  
assignment sheet for Baby Belanger. Baby Belanger  
died on December the 28th, 1980, ma'am. The arrest  
occurred, as we have heard, at 7:30 in the evening  
and the death at 8:10 in the evening.

MS. SYMES: To assist, that is  
found in the first volume, Tab 13, pages 12 and 13.

MR. OLAH: Q. It is Exhibit 32A.  
Have you located that, ma'am?

A. I am looking in the original  
book, is that all right?

Q. All right. You have got an  
advantage. I am working from photocopies. But  
anyway, have you got at the top of the page Sunday,  
December 28th?

A. 28th, yes.

Q. And would you agree with me  
that Ms. Brownless is not listed as having worked  
either the day shift or the night shift that day,  
in other words, she was off all day?

A. Yes, she was.





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Q. Now, when we have got the nursing assignment sheet and the WIN sheets both saying that a nurse is off or a registered nursing assistant, can we be fairly certain that in fact that person was not there and did not work that day?

A. I am confident that she did not.

Q. In fact, if we go back to the WIN sheets, it would seem to indicate that Ms. Brownless was off between Saturday, December 27th right through to Monday, January the 5th. The first time she came back was for long nights on Monday, January the 5th; would you agree with that?

A. I agree.

Q. And I notice that she was also off on the 23rd and also three days prior to the child Lombardo.---

A. What day was Lombardo's?

Q. If we go back the sheet before ---

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BmB.jc

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A. Please remind me what date you  
are talking about for Lombardo.

Q. Lombardo was Monday the 22nd.

A. Okay.

Q. Not only was she off on the  
22nd but she was off the 19th, 20th and 21st.

A. And she was ill on the 17th and  
the 18th.

Q. So that she was away - the last  
day that she worked, you're right.

A. It's a long time.

Q. A long time before the Lombardo  
child ---

A. It was December 14th, I think.

Q. Because she had been ill also  
on the 17th and the 18th?

A. Yes.

Q. But the last time she worked  
was December 14th. So, she was away until the 24th.

Now, I'd like to just deal with  
quickly two other children, John Onofre, who died on  
December 9th, 1980. The child arrested at 3:19 in the  
morning and died at 4:10. I believe the child died  
on Ward 4B?

A. Yes.





E.2

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Q. As had the Baby Belanger. Do  
you recall that?

4

5

A. I believe you, I can't recall  
the dates of their deaths.

6

7

Q. Well, actually, it was 4A/B  
because over Christmas as I recall 4A/B were joined  
or merged.

8

9

A. And what date are you talking  
about?

10

11

Q. Well, just dealing with Belanger,  
December 28th.

12

13

A. Yes, the wards were one at  
that time.

14

15

Q. And Onofre who died December  
9th would have been on 4B?

16

17

A. Yes.

Q. If you could turn to Exhibit  
32C, page 151.

18

19

A. Under which tab?

20

21

Q. 87, I'm sorry.

22

23

A. Yes.

Q. Would you agree with me that  
according to the assignment sheet Ms. Brownless  
worked long days?

24

25

A. Yes, she did.





E.3

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Q Turning then to the WIN sheets, if we look at the week of December 8th to the 14th and if we look at the day, Monday the 8th, Miss Brownless worked long days, according to the WIN sheets?

A Yes, she did.

Q So, assuming that she left at 7:45, the time lapse between her departure from the floor to the arrest would be almost seven and a half hours?

A Yes.

Q The final child I would like to deal with, Ms. Costello, is Kristin Inwood. Kristin Inwood died on March 13th, 1981 and she died on Ward 4B, did she not? Do you recall that?

A Yes, she did.

Q And the arrest was at 2:30 in the morning and death occurred at 3 o'clock in the morning. If we turn to Exhibit 32A, Tab 13, page 161, please. That is the sheet, is it not, ma'am, for - if you look right beside page 160, Thursday, March 12th.

A I am still having difficulties with these black rings stuck through the dates.

Q Well, maybe I should show you







E.4

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my photocopy and we can match the two up.

3

A. Yes, yours looks better.

4

Q It is not very often that you  
will find a photocopy being better than the original.

5

6

MS. SYMES: Excuse me, shouldn't you  
be looking at the assignment sheet for December 12th  
since the death occurred in the early hours of the 13th?

8

9

MR. OLAH: Well, that is what I have  
got, Thursday, March 12th.

10

11

THE COMMISSIONER: That is what we are  
on, isn't it?

12

13

MS. SYMES: It occurs on one page at  
158 and 159.

14

THE COMMISSIONER: No, on mine it is  
160 and 161.

15

16

THE WITNESS: Thursday, March 12th?

17

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MR. OLAH: Q Yes, page 160 and 161 on  
mine, Ms. Symes. The death occurred on the 13th. So,  
we are looking at the 12th and the 12th appears to be  
on my copy 160 and 161. That seems to be the same  
on the Commissioner's copy also.

20

21

THE COMMISSIONER: I can't find Inwood  
on this.

22

23

24

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MR. OLAH: Well, you won't find Inwood,  
sir, because Inwood is on 4B and we are looking at





E.5

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the 4A side, sir.

3

THE COMMISSIONER: Oh, yes, yes.

4

MR. OLAH: Q Would you agree with me,  
ma'am, that Miss Brownless on that day, March 12th,  
Thursday, March 12th, worked long days again?

5

6

A. Yes, she did.

7

8

Q. Okay. She was assigned all day  
to 4A?

9

A. Yes, she was.

10

11

Q. Now, turning to the WIN sheets  
and it is about the fifth last sheet for the week of  
March 9th to the 15th.

12

13

A. Yes.

14

15

Q. If you look under Thursday,  
March 12th, Miss Brownless on that appears to have  
worked long days again?

16

A. Yes.

17

18

19

Q. Now, consequently, if Miss  
Brownless left at 7:45 that evening and the arrest  
occurred at 2:30 in the morning, she was almost some  
seven hours departed when the arrest occurred?

20

21

A. Yes.

22

23

Q. Now, just briefly two other  
children if I may. But before I get to them, do I  
understand correctly, and please correct me if I'm

24

25





E.6

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wrong, that when a child is under constant nursing care that only a registered nurse can discharge that function?

5

A. Yes, generally that is true.

6

Q. A registered nursing assistant cannot do that?

7

A. No.

8

9

10

11

Q. And when a registered nurse is relieved for purposes of constant nursing care, can she be replaced by an RNA or must it be a registered nurse that takes her place?

12

13

14

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16

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A. It should be an RN but I think I remember some discussion with Miss Cronk in this room about that. But for assigned relief for a coffee or meal break it would be an RN but maybe if she just went to the bathroom for a few minutes an RNA in the room could watch the baby under the supervision of an RN.

18

Q. Of another RN?

19

A. Yes.

20

21

Q. But if there wasn't another registered nurse there to supervise a registered nursing assistant?

22

A. She couldn't go to the bathroom.

23

Q. Pardon?

24

25







E.7

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A. She couldn't go to the bathroom.

3

Q. She couldn't go to the bathroom.

4

In other words, at no time could you have a registered nursing assistant alone with a child that is under constant nursing care?

5

6

A. I would think no.

7

8

Q. All right. And we know that the child Cook ---

9

10

THE COMMISSIONER: I'm sorry, you said "I think no"?

11

12

THE WITNESS: Theoretically, no. I have not seen it happen and the rule is that it doesn't happen. I can't swear that it didn't.

13

14

MR. OLAH: All right.

15

16

Q. But as far as you know it didn't happen?

17

18

19

A. No.  
Q. And I take it that would have been a fairly serious matter if it had, it is against Hospital policy?

20

21

22

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THE COMMISSIONER: Well, if it had been a case of the bathroom I don't think it would have been that serious, but I don't know anything about disciplinary proceedings in the Hospital, so, you will have to forgive me, maybe I'm wrong. Am I going too far?





E.8

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THE WITNESS: I guess what I would say too is that there could never not be an RN on the ward supervising.

THE COMMISSIONER: No, around somewhere.

THE WITNESS: They could not leave the wards.

THE COMMISSIONER: Supposing a nurse was on constant care, constant nursing care with a particular child alone in a room and she wanted to go to the bathroom and a registered nursing assistant is there, is that contrary, if she has one there for that brief period, is that contrary to the rules?

THE WITNESS: No, I don't think so because there is an RN somewhere around.

THE COMMISSIONER: There is not an RN in the room.

THE WITNESS: No, but she is somewhere around and is aware of what is happening.

THE COMMISSIONER: Well, she might not be aware of that.

THE WITNESS: I think she should be aware of that.

THE COMMISSIONER: Oh, I see, all right.

MR. OLAH: Q Would the registered nurse then come and observe the registered





E.9

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2

nursing assistant or just be aware that the  
registered nursing assistant is alone?

4

5

A. Probably that would be her  
judgment whether she needed to come and look or it  
would also relate to the period of time.

6

7

8

Q. Okay. But other than for those  
very brief moments, and I take it there were washrooms  
right on the floor?

9

10

A. Yes.

11

12

Q. So, we are not talking about a  
nurse having to go very far?

13

14

15

A. No.

Q. Other than for those brief  
moments, a child under constant nursing care would be  
at all times with a registered nurse?

16

17

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19

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22

A. Yes.

Q. Now, I would like to deal with  
two brief other areas if I may. I understand, or the  
evidence we have heard is that on the evening  
of Baby Miller's death, that's March 21st, there was  
a lock-up of digoxin between ten and twelve in the  
evening on Wards 4A/B?

23

24

25

A. I understand that to be true.

Q. Now, as a result of that,







E.10

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2

digoxin became a controlled drug?

3

A. Yes.

4

Q. We have all now seen the floor,

5

we know that there are two medication - we have

6

talked about cabinets but they are actually small

7

rooms where medication was kept?

8

A. Yes.

9

Q. And in those small rooms in

10

each room there is a small locked cabinet on the

upper left-hand side as you come in the door?

11

A. Yes.

12

Q. The only people I understand

who had access to those keys were registered nurses?

13

A. Yes.

14

Q. And registered nursing

15

assistants would not have a key or would not be able

16

to get access to a key?

17

A. No, they would not.

18

Q. So that if they asked for the

19

key the policy was they just simply could not have

20

the key?

21

A. They could not.

22

Q. They had no right to go into

that cabinet?

23

A. No.

24

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E.11

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Q. So, after lock-up on March 21st there was just simply no physical way that a registered nursing assistant could have gotten in to the narcotic cabinet?

A. No.

Q. And that is where the digoxin was kept?

A. Yes, it was at that time.

Q. And that policy has continued in effect as far as you know until the day you left The Hospital for Sick Children?

A. Yes.

Q. So that if there was for some reason - well, we know that there were two digoxin tablets missing on or about May 14th, 1981?

A. Yes.

Q. It simply would have been physically impossible for a registered nursing assistant to have anything to do with that. Am I correct on that?

A. Yes.

Q. Talking about those medication cabinets, they are right beside the front desk as you come up to Ward 4A/B?

A. Yes, they are.





E.12

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Q And when, especially at nights,  
would the team leader be filling out her records at  
the front desk there?

A Sometimes but I think she would  
be a considerable time observing patients as well but  
she would sometimes be working in that area.

Q But certainly that front desk  
is an area of a lot of traffic, is it not?

A Yes.

Q And from the front desk it is  
very easy to look into the medication area?

A Yes, there is a window there.

Q There is a large window there?

A Yes.

THE COMMISSIONER: There is a window  
into the ...

THE WITNESS: Nursing station.

MR. OLAH: Q Could you point out for  
the Commissioner, please, ma'am, precisely where that  
window is from the front desk into the medication  
room?

THE COMMISSIONER: Into each of the  
medication rooms.

MR. OLAH: Well, I thought we would  
start off with 4A because they are similar.







E.13

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THE COMMISSIONER: Oh, yes, yes. Is that the window?

4

MR. OLAH: There is a white line.

5

THE WITNESS: This is the window, this is the door.

6

7

MR. OLAH: Where is the window, could you just point to it?

8

THE WITNESS: This is the window.

9

10

MR. OLAH: Q The white lines indicate the window, is it, Miss Costello?

11

A Yes.

12

THE COMMISSIONER: Oh, yes, all right, I see.

13

14

15

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MR. OLAH: Q I wasn't as accurate as Mr. Hunt was in taking measurements. Perhaps you could tell us how large those windows are? They are large windows, are they not?

17

18

A Yes, they are sort of waist level to the top of the wall.

19

20

21

22

Q Okay. And prior to March 21st, the evening of March 21st, I understand that the digoxin was kept in the cabinet on the right-hand side above the waist level. There are cabinets on the wall, oh, about the eye level, is it?

23

24

25

A Yes. I think that it was kept on the shelving.





E.14

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Q Your recollection is that it  
was kept on the shelving?

4

A Yes.

5

6

7

Q All right. Well, the shelving,  
you've got a cabinet on the right-hand side as you're  
facing the cabinets, that is where the ordinary  
medication was kept?

8

A You are talking 4A?

9

Q 4A, I'm sorry.

10

11

A I have to think which way I am  
facing. Yes.

12

13

Q And then you had the narcotic  
cabinet on the left, that's the one that was locked?

14

A Yes.

15

16

Q And then in the middle there  
were some open shelves?

17

18

A I think they were closer to the  
exterior door than was the narcotic cabinet.

19

Q All right.

20

A So, further left I think.

21

22

23

24

25

Q Well, no, if you will recall,  
I don't want to argue with you because your recollection  
is probably better than mine, you having worked there,  
but would you not agree with me that the narcotics  
cabinet is on the extreme left-hand side of the  
medication room?





E.15

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A. Which room?

3

4

Q. We are talking about 4A, right  
above the refrigerator.

5

A. I think it is on the right.

6

Q. All right.

7

8

9

A. I think it is on the left on 4B.  
It is further into the room, whichever way we are  
talking, it is further into the back of the room away  
from the exterior door than is the shelving.

10

11

12

13

Q. Okay. In any event, would you  
agree with me that where the digoxin was kept was  
fairly visible through the window from the nursing  
station?

14

A. Yes, it was.

15

16

17

Q. So that if you had a registered  
nursing assistant - by the way, registered nursing  
assistants had no right or no reason to handle digoxin,  
did they?

18

A. No, they did not.

19

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Q. And if anyone had seen a

Registered Nursing Assistant in the vicinity of the medication, and in particular digoxin, that was something that would have been fairly visible and obvious?

A. Yes. Maybe I should make one exception; that would be unusual but it is possible if a doctor and a Registered Nurse wanted digoxin brought to them, they could say to a Registered Nursing Assistant to bring me a bottle of digoxin. That would not be abnormal; she wouldn't be doing anything with it, only picking it up and handing it to them.

Q. But if you saw a Registered Nursing Assistant picking up digoxin and doing something with it, that would have been something that would have been questioned by someone on the floor, if it had been seen?

A. Yes, except in those circumstances I told you and not doing something with it; she would be simply handing it to someone else.

Q. And if something like that were observed, would you agree with me that the Registered Nursing Assistant would have been questioned?

A. Yes.





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Q. And of course, you at no time -- by the way, would such an incident be reported to the Head Nurse?

A. I suppose I would trust the judgment of the person who saw it that she solved the problem with the individual and if there was some innocent answer, she wouldn't need to talk to me; if she was concerned about it, yes, she would.

Q. And you never had anything like that occur with you with the Registered Nursing Assistants on 4B, did you?

A. No.

Q. And you have never heard of that occurring on 4B?

A. No.

Q. Or on 4A?

A. No.

MR. OLAH: Thank you. Those are all the questions I have, sir.

THE COMMISSIONER: Thank you, Mr. Olah.  
Now, Miss Jackman.

MS. JACKMAN: Mr. Commissioner, I have no questions.

THE COMMISSIONER: I guess you were a success, Mr. Olah.





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MR. OLAH: I am very grateful for that help.

THE COMMISSIONER: All right, Mr. Labow.

CROSS-EXAMINATION BY MR. LABOW:

Q. Miss Costello, my name is Steven Labow and we represent a number of parents of children who died on the ward.

Just getting back to what Mr. Olah was talking about, looking through that window, do I take it that during the day the ward clerk would be sitting at the desk most of the time?

A. Yes, and there were two, so one would be certainly there almost all the time.

Q. So during the day someone would be sitting at the desk and they would look into that room almost all the time?

A. Yes.

Q. But at night the team leader might be there but might be with patients?

A. And also might be in the back of the station.

Q. Thank you. Now we have heard that the nurses were very concerned with their actions.







F4

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2

A. Yes.

3

Q. And expressed their concern

4

about their actions.

5

A. Yes, they did.

6

Q. Were the nurses also con-

7

cerned, or did they ever express to you their concern  
about the actions of the doctors?

8

A. I still want not to stumble

9

myself again, the same thing that I have been saying

10

that they were worried that the doctors were not

11

trusting their judgment enough, and they based this

12

on the fact that they felt that after a doctor had

13

been notified about the seriousness, as they saw it,

14

of their nursing observations of the child, the

15

doctor would see and assess the child and then would

16

go away, which left the nurses feeling a lack of  
support at that moment.

17

Q. Well in the Ward 4A meeting

18

book, which is Exhibit 300, at page 175 --

19

A. 175 of...?

20

Q. The third tab, page 175. This

21

is the October 23rd meeting.

22

A. Yes.

23

Q. That frustration concerning

24

communication with the doctors is expressed?

25





F5

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A. Yes, it is.

3

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Q. Other than that were there problems expressed with the medical staff to you?

5

6

A. I have got myself confused here. Other than that date?

7

8

Q. Other than that kind of incident.

9

10

11

12

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14

A. No, other than that kind of incident -- yes, there were. There were concerns that there was inadequate type of coverage at night sometimes, that the senior resident in Cardiology was from another country and could not always cope well with English; that was a particular problem with the parents. I didn't hear it specifically stated as a problem with the medical treatment.

15

16

17

Q. Can you look at the Ward 4B meeting book, which is Exhibit 301, and turn to page 9.

18

19

20

A. I don't have it here. Page 9?

21

22

Q. Page 8 and 9. This is the same October 23rd date.

23

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25

THE COMMISSIONER: I'm sorry, this is 301?

MR. LABOW: This is Exhibit 301.

THE COMMISSIONER: Yes.





F6

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A. This ends on page 39.

3

Q. Page 9, 8 and 9.

4

A. Oh, I am sorry, yes.

5

Q. Now, this deals with the same meeting, the October 23rd meeting at Meredith Frise's apartment.

7

A. Yes.

8

9

Q. And these are Meredith Frise's notes, I think, for this date.

10

A. Yes.

11

Q. Now, were you present at that meeting?

12

A. Yes, I was.

13

14

Q. At the very top of page 9, the first paragraph, there is a discussion about how the doctors don't relay messages about how ill the children are. Then it says:

15

16

17

"The Fellows need to know more things about cardiology. That Dr. Freedom blaming the doctors under him..."

18

19

20

A. I think the person who wrote this told me that word was "training", not "blaming".

21

22

Q. I'm sorry, "training"?

23

A. I know you can't read it, neither can I, but the person who wrote it told me that

24

25







1  
F7 2 is what it meant.

3 Q. "Training".

4 A. Yes. I think she is not  
5 terribly literate in writing; I think it is poor  
6 grammar, but she told me the word was "training".

7 Q. Could you read the rest of it  
8 for me.

9 A. "That Dr. Freedom training the  
10 doctors under him that ordered the  
11 right meds."

12 MR. ROLAND: These words are not  
13 written by this person and we are not sure what the  
14 context is. I hate it to be taken, because they are  
15 in this, they are truth to the facts that are set out.

16 THE COMMISSIONER: No.

17 MR. ROLAND: This could be very  
18 harmful.

19 MR. LABOW: Mr. Commissioner, I am  
20 here to ask the context.

21 THE COMMISSIONER: No. If she was  
22 there, she can tell us what did take place.

23 MR. ROLAND: Certainly, it may be  
24 something that was said or not at the meeting, and it  
25 may be the view or not of the individual writing  
it, but it shouldn't be taken as being truth of the





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facts.

THE COMMISSIONER: No, I won't,  
I promise.

MR. ROLAND: I hope nobody else does  
either.

THE COMMISSIONER: Well, I won't,  
that is all I can say. Go ahead, Mr. Labow.

MR. LABOW: Q. Do you recall this  
discussion taking place at that meeting?

A. Yes.

Q. And what was the Dr. Freedom  
situation concerning?

A. As I recall the discussion,  
I would not have taken it as seriously as it appears  
in those notes. I think it was to do -- I think I  
said to you there were Fellows from other countries  
and I think an exhibit at the very end of Ms. Symes  
talking to me was a letter that Liz Radojewski wrote  
to Administration in the Hospital asking for a delay  
of the target date for the Intermediate Care Unit;  
it also suggested our concern about scarcity of  
Fellows and experienced Pediatric Residents, and about  
the fact that if they came from another country, they  
probably came with their own funding and that is why  
they could be there when money was limited but the





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F9 2 quality of what they could do in English was sometimes  
3 less than if they had come from Canada or the U.S.

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Q. Now if you had this kind of  
concern did you discuss it with anyone else in the  
Administration?

A. I discussed it with Dr. Rowe,  
and I think I discussed it at some point in March at  
a meeting with Dr. Rowe at which Mr. Murray in  
Administration attended. I saw it as mainly a medical  
matter and that is why I discussed it with Dr. Rowe  
primarily.

Q. Now did you ever receive  
complaints, as the Head Nurse, from any of the medical  
staff about the nursing care that your nurses were  
administering to patients in the time period in  
question?

A. Not specifically complaints.  
I think we were very open to assessment and if they  
asked for things like -- I think you will see in some  
of the notes of the January 12th meeting that they  
said recording at the bedside ~~as~~ it is done in ICU  
would be more helpful than the type of recording we  
did. That is an example of the kind of things that  
we were open to hear from them and did hear from them.  
I didn't hear a complaint related to competence.







1  
F10 2 Q. So there was a suggestion that  
3 possibly the nurses should report things at the  
4 bedside?

5 A. That the whole system should  
6 be changed so the recording would be done at the  
7 bedside as it is in the Intensive Care Unit. This  
8 was one of the things that they recommended as  
9 beneficial and was in our planning to happen in the  
Intermediate Care Unit.

10 Q. Do you recall who suggested  
11 that?

12 A. If I could see the Minutes of  
13 the January 12th meeting, I might be able to figure  
14 it out. That is at the Minutes of meeting held in  
15 the Administration Room with Dr. Rowe, Dr. Williams,  
et cetera, and Dr. Edmonds and Ms. Geiger.

16 MS. SYMES: That is Exhibit 65, sir.

17 MR. LABOW: Q. That suggestion was  
18 made in January?

19 A. As I recall it, that is when  
20 it was made. I give it to you as an example of the  
21 kind of things that would receive -- I don't know  
22 whether you would call it a complaint or a suggestion  
or working together to make things better.

23 Q. While you were at the Hospital,  
24  
25





1  
F11 2 was that suggestion ever carried into force?

3 A. No. We continued to use our  
4 worksheets and we continued to campaign to have a  
5 unit where this kind of thing could happen.

6 Q. Now you told us already that  
7 you hired Mrs. Trayner.

8 A. Yes.

9 Q. And she was with you for  
10 about a year on Ward 5A?

11 A. I am not sure of her hiring  
12 date. I think it was approximately a little less  
13 maybe; it was less than a year, I think.

14 Q. Was she a team leader on  
15 Ward 5A?

16 A. I can't find documents to  
17 confirm that, but she became team leader either at  
18 the time of the transfer to the other ward or very  
19 close to it.

20 MS. SYMES: It was established in  
21 evidence that she became a team leader in June of 1980;  
22 is there any doubt about it?

23 THE COMMISSIONER: June of 1980?

24 MR. LABOW: I don't recall it being  
25 that certain.

MR. YOUNG: Who established that? If





1

F12 2 it was this witness, she appears to have forgotten  
3 it. It doesn't appear to be that clear to me.

4

THE COMMISSIONER: Well --

5

THE WITNESS: May of 1980, I have in  
6 my notes made from some notes --

7

THE COMMISSIONER: That was when she  
8 first became a team leader?

8

THE WITNESS: Yes.

9

10 THE COMMISSIONER: So, she was not a  
team leader on Ward 5A?

11

THE WITNESS: No.

12

13 MR. LABOW: Q. When she worked on  
Ward 5A with you, did she seek reassurance as much  
14 as she did when she moved down to Ward 4A/B?

14

15

16 A. It became much more evident  
when the stress piled up. From the date I hired her  
17 and the date I interviewed her, I found her to be a  
very open person who would ask for reassurance when  
18 she needed it as she thought.

18

19

20 Q. Was she as vocal before she  
became a team leader?

20

21

A. Quality, yes; quantity, no.

22

Q. She wasn't as vocal as often?

23

24 A. No, not until the stress  
25 built up.

24

25







1  
F13 2 Q. Now you commented when you  
3 were discussing the ICU situation about Philip  
4 Turner; and Exhibit 300, in the first tabs, on page  
5 10, you refer to the blood gas results, which you  
6 said indicated instability. That is about half-way  
7 down.

8 A. Yes.

9 Q. And the ICU was notified?

10 A. Yes.

11 Q. You took part in those rounds  
12 on the 5th of September?

13 A. Yes.

14 Q. That was with Drs. Rowe  
15 and Contreras?

16 A. I think there were more  
17 doctors than that but I can't tell you from memory.  
18 That is what it says in the notes.

19 Q. Now you said that those  
20 results indicated instability and would have been  
21 helped by ventilation?

22 A. Yes.

23

24

25





BN/ak

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2

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Q. Was that information related to you by the doctors?

4

5

6

A. I interpreted from reading this, but, like, I was not there when this baby died. I interpreted from what I read in these notes.

7

8

9

Q. Well, when this child was reviewed in these mortality rounds, as they are labelled --

10

11

A. Yes.

12

13

14

Q. -- is that something that the doctors commented to all of you?

15

16

17

A. I can only go from the notes that are written here now that say that they stated what the gases were and that ICU was notified.

18

19

20

Q. So it is your opinion that the child would have been helped by ventilation?

21

22

23

24

25

A. Yes.

Q. Now, we have heard that there was a shortage of experienced RNs?

A. Yes.

Q. And Exhibit 331 shows that there were vacancies through September and through October right into the first week of November.

A. I do not have it.

Q. This is just the 4B vacancies





Costello, cr.ex.  
(Labow)

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2

by week?

3

4

5

A. I wrote it, but I do not have  
it to look at now. Thank you. Now, can you repeat  
the dates, please?

6

7

Q. September, October and the  
first week of November?

8

9

10

A. Yes.

Q. Now, am I correct that this  
was the time that the nurses started openly discuss-  
ing the problems about breaking up the team?

11

12

A. Approximately then, as I  
can remember.

13

14

15

Q. Previously when you had  
transferred to the ward, you had lost a number of  
your nurses?

16

17

A. Gradually, and that is apparent  
on the pages that come after this.

18

19

Q. Was there a fear by the head  
nurses and the nursing administration that if the  
teams were broken up that you would lose more nurses?

20

21

A. It sounds logical now, but I  
do not recall considering it at that time.

22

23

Q. You are not sure if you  
considered it or not?

24

25

A. I do not recall at all that I







1  
2 did consider that as a factor, and it would not have  
3 stopped me doing it if there had been good reason  
4 to break up the team, so anything but have  
5 incompetence on a team.

6 Q. Well, the nurses did not want  
7 to work on that team because of the problem with the  
8 increasing deaths?

9 A. That is right.

10 Q. Did any of them express to you  
11 the fact that they would leave if they had to work  
12 on that team?

13 A. Not as I recall it now, that  
14 they said it that strongly, but I cannot deny that  
15 that could have been a possibility.

16 Q. I would like to turn to  
17 Kristin Inwood. She was admitted to Ward 4B and  
18 you were the head nurse on the ward at that time?

19 A. Yes.

20 Q. Now, could you look at Exhibit  
21 32A, Tab 14. It is pages 128 and 129.

22 A. Yes.

23 Q. Now, according to the nursing  
24 assignment, Ms. Frise was in charge of Kristin Inwood  
25 on the 12th during the day?

A. Yes.





1

2

3

Q. And she was relieved by  
Ms. Mandal?

4

A. I cannot read that.

5

6

Q. It is on page 129. I may be  
reading this incorrectly.

7

THE COMMISSIONER: That would not be  
the way I read it.

8

9

THE WITNESS: No, I think you could  
assume a line between Ms. Frise and Ms. Mandal's  
assignment.

10

11

MR. LABOW: Q. So Ms. Mandal was a  
relief nurse for the other children listed below her?

12

13

A. Yes.

14

15

Q. Now, at night, Ms. Halpenny  
was in charge?

16

A. Yes.

17

Q. And Ms. Harwood-Jones was  
Kristin Inwood's nurse?

18

19

A. Yes.

20

Q. Now, you have told us that  
when you came on the next day there was some concern  
expressed about Kristin Inwood's death?

21

22

A. Yes.

23

Q. And that Miss Halpenny expressed  
some concerns?

24

25





1

2

A. Yes.

3

4

5

6

Q. Do you recall what concerns she had? Now, you have already told us that she was surprised at the time at which the child died. Other than that ---

7

8

9

A. Can I look at what I said before, because I think I said everything I could remember then, but I do not want to tangle it up.

10

11

12

13

14

Q. It is at page 1261 in Volume 95, and if I can paraphrase it, you say that she was concerned regarding the time that this child died and did they do everything possible. Do you recall any specific concerns that she expressed to you about this child?

15

16

17

A. At some time, and I do not recall exactly when she told me about the medication error that she had made in giving digoxin to Kristin Inwood, that concerned her greatly.

18

19

Q. Was it Ms. Halpenny who had given the digoxin to Kristin Inwood?

20

21

22

A. Yes.

Q. But you do not recall any of the other concerns expressed specifically?

23

24

25

A. No, I do not.

Q. Did any of the other nurses







1  
2 express concerns to you about the death of this  
3 child?

4 A. Not that I recall.

5 Q. Did you discuss any other  
6 concerns with the medical staff?

7 A. Did I answer that a few days  
8 ago? I am not very specific in recalling that now.

9 Q. So you do not know or ---

10 A. I assume I did. I cannot  
11 be very specific about it.

12 MR. LABOW: I have no further  
13 questions.

14 THE COMMISSIONER: Thank you. Are  
15 you next, Mr. Shinehoft?

16 MR. SHINEHOFT: Yes, I believe I am.

17 THE COMMISSIONER: Do you want to  
18 go now or do you want to ---

19 MR. SHINEHOFT: It does not matter.

20 THE COMMISSIONER: How long will you  
21 be?

22 MR. SHINEHOFT: 10 minutes maybe.

23 THE COMMISSIONER: It might be  
24 sensible if we just wait until after the break then,  
25 until 11:45, 20 minutes.

---Short recess.





1  
2  
3 ---Upon resuming.

4 MR. SHINEHOFT: Mr. Commissioner,  
5 before I commence my cross-examination, I believe  
6 my friend Mr. Young has one or two comments that  
7 he would like to make.

8 THE COMMISSIONER: Yes, all right.

9 MR. YOUNG: If I might,  
10 Mr. Commissioner. There are two matters that I would  
11 like to discuss very briefly.

12 The first arises out of a comment  
13 that my friend Ms. Symes made this morning with  
14 respect to the media. It seems to me, Mr. Commissioner,  
15 that my friends, particularly the counsel for the  
16 nurses, have attempted -- participated in trying to  
17 prohibit you from reporting on some of the evidence  
18 that you heard in this Commission. We now see an  
19 attempt to try to prohibit the media from reporting  
20 in the way that they would like.

21 I simply wanted it stated that we feel  
22 that this is a public inquiry, and whether or not  
23 we agree or disagree with the way that the media  
24 interprets various witnesses' evidence, we feel that  
25 it is their right to do so, and indeed, their duty  
to do so. I think I am supported in that position  
by some of the counsel for the parents.





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THE COMMISSIONER: Yes, all right.

MR. YOUNG: The second matter, Mr. Commissioner, arises out of re-cross-examination, I guess you would describe it, by Ms. Forster this morning, and I wonder if I might be permitted the opportunity to ask a few questions as well, and that is solely arising out of what Ms. Forster asked.

THE COMMISSIONER: Yes, all right. While we are correcting things, I notice Mr. Roland is not here, but I had forgotten where I was when I was speaking to him when I said that I would pay no attention to what was in these meetings. I want to correct that.

I will not pay much attention to that particular one because I do not think it is important, but this is a Commission, it is not a trial, and we have reports of the meetings. I am entitled to look at them and may look at them and may accept them for the truth of what is in them.

Now, I have said all of that and poor Mr. Roland is not here, but maybe somebody will tell him. Yes, all right, now, you want to cross-examine on something?

MR. YOUNG: Yes.







FURTHER CROSS-EXAMINATION BY MR. YOUNG:

Q. Yes, Ms. Costello, ---

A. Excuse me, sir, who are you?

Q. My name is David Young and I am one of the lawyers for the Metropolitan Toronto Police.

A. Yes.

Q. Yesterday you told both Mr. Hunt and Mr. Percival about some of your dealings with Metropolitan Toronto Police?

A. Yes.

Q. And in particular, at page 1616, Volume 96, Mr. Hunt asked you a question, and the question was:

"Q. But you don't know what effect it might have had on the police on the 23rd of March of 1981 if you had just expressed to them your concerns and thoughts, just the way you did in June of '82?"

And your answer to Mr. Hunt was:

"A. I never even thought of expressing it to them."

This morning, Ms. Forster asked you a question. She asked if you had any reason to suspect Phyllis Trayner





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2  
3 and Susan Nelles, would you not have told the  
4 Metropolitan Toronto Police, and you will correct me  
5 if I am wrong, but I think your answer was something  
6 to the effect: I believe so, it would have been  
7 criminally and perhaps morally wrong ---

8 A. Morally and perhaps criminally.

9 Q. Pardon me?

10 A. Morally and perhaps criminally.

11 Q. Well, that is fine, if you did  
12 not do so.

13 A. Yes.

14 Q. Well, it seems to me, ma'am,  
15 that yesterday your position was you never even  
16 thought of doing it, and today you had an expanded  
17 version of that answer, somewhat different but  
18 expanded.

19 A. To me it means the same thing  
20 that I was thinking yesterday.

21 Q. Yes, and over the evening did  
22 you have an opportunity of discussing this matter  
23 with your counsel?

24 A. I had the opportunity but I did  
25 not.

Q. You did not. You did not talk  
about it at all with your counsel?





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A. About that specific question?

Q. About that area, about your discussions with the Metropolitan Toronto Police?

A. Yes, I talked to her about my discussion with -- no, not with Metropolitan Toronto Police, with Mr. Percival.

Q. Well, he is the counsel for the Metropolitan Toronto Police. I am interested in knowing whether or not you talked to your counsel about your activities, your dealings with the Metropolitan Toronto Police.

A. Last night?

Q. Yes.

A. No, I did not.

Q. You did not. Did you this morning?

A. No.

Q. And did you with Ms. Forster last night?

A. Oh no, I never even saw her.

Q. And did you this morning?

A. I never saw her until she stood up here this morning. No, I did not.

Q. Well, to help you, did she not come over and talk to you before these proceedings







1  
2 began this morning?

3 A. No, I do not think so.

4 Mr. Roland did.

5 MR. YOUNG: Thank you.

6 THE COMMISSIONER: Yes, all right,  
7 Mr. Shinehoft?

8 MR. TOBIAS: Mr. Commissioner, if  
9 I might, I think my friend Mr. Young moved on a  
10 little bit quickly with respect to his comments on  
11 the press, and I do not want to belabour the point  
12 because we are not here to make speeches, but it  
13 seems to me that everyone is by now painfully aware  
14 of the various balancing acts that we have to do and  
15 of the competing interests, specifically the public  
16 right to know and the parents' right to know and  
17 protecting innocent individuals. It seems to me,  
18 however, that the decision was made very, very early  
19 on first of all by the Attorney General when he said  
20 that he was satisfied that this was the kind of forum  
21 that we had to have in order to get all of the answers,  
22 and secondly, at the very beginning of these  
23 proceedings by you there was some discussion about  
24 media coverage. You exercised your discretion at  
25 that time in favour of having a very open proceeding  
and to allow the media to conduct their business here





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reasonably and to cover the proceedings. It seems to me that that decision has been made, and I think it is only fair to say that although we each have a different perception of how the media has behaved to date, I think that the history of this thing has borne out your decision and that thus far I think the press has acted very responsibly and has not in any way disrupted the proceedings.

I join Mr. Young in stating that it is not for us to tell the press how to cover these proceedings, and if certain individuals perceive that they are being adversely affected by certain press coverage, those individuals have the right to approach the members of the media and put their points forward and to discuss it with the media, but to try and intimidate --

THE COMMISSIONER: I do not want to encourage that too much.

MR. TOBIAS: To try and intimidate the media by making comments regarding their coverage in this forum I think is inappropriate.

THE COMMISSIONER: Yes.

MR. LABOW: I too support that position.

THE COMMISSIONER: Yes, all right,





1  
2 thank you. Well, I think everybody has had a chance  
3 to say what he wants to say on this subject.

4 All right, now, Mr. Shinehoft.

5 MR. SHINEHOFT: Well, Mr. Commissioner,  
6 if the time that these gentlemen have used encroaches  
7 on my cross-examination, I think I am in trouble.

8 THE COMMISSIONER: Yes, I think  
9 I did extract 10 minutes out of you.

10 MR. SHINEHOFT: 10 or 15 minutes.

11 THE COMMISSIONER: However, I do  
12 not think we are in any trouble today, because it  
13 does look as though we will be out of here before  
14 the usual time this afternoon.

CROSS-EXAMINATION BY MR. SHINEHOFT:

15 Q. Ms. Costello, my name is  
16 Jack Shinehoft and I represent the parents of the Baby  
17 Kevin Pacsai. I understand that you were on duty  
18 when this baby arrived at the Hospital; is that  
19 correct?

20 A. Yes, I was.

21 Q. Could you tell me the length  
22 of time that you worked at the Hospital for Sick  
23 Children?

24 A. I started there in August of  
25 1976.







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Q. I understand that that Hospital is somewhat of a unique hospital, being one of the largest pediatric hospitals in the world; is that correct?

6

A. Yes.

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Q. And that there are a number of different types of patients that are referred to that Hospital, and by types of patients I mean, for example, children who are sick and they need treatment, and as well, children who have been sick, have been treated and need what some people have called a workup to try and determine what caused their sickness in the first place; would you agree with that?

14

A. Yes.

15

16

17

18

Q. Children who basically are well when they arrive at the Hospital but were sick before and have come to the Hospital because of their expertise in trying to determine what caused their initial sickness?

19

A. Yes.

20

Q. Would you agree with that?

21

A. Yes, I do.

22

23

24

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Q. And what category, if you had to categorize, would you put this child Kevin Pacsai under?





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A. He came there for assessment

but he came there with a history of having been ill  
and he came from another hospital where he was ill.

As I recall now without any notes I think that

he was in both St. Joseph's Hospital and McMaster  
Hospital in Hamilton prior to him coming to us and  
that he came directly to us from McMaster Hospital.

I think he was in those hospitals because of illness.

He came to us then for assessment but I am not saying  
that he was a healthy baby when he came.

Q. Right. Well, we will get  
into that. I understand from your evidence, Miss  
Costello, that you indicated that on his arrival he  
was admitted with a history of problems with  
arrhythmias and apnea for investigation.

A. Yes.

MR. SHINEHOFT: Now, Mr. Registrar,  
could you provide the witness with the chart for  
Kevin Pacsai, Exhibit 106.

Q. My purpose in doing that,  
Miss Costello, was to ask you where in his chart you  
could show me that this baby had a history of  
apnea because unless I missed it I couldn't find it.

A. Perhaps I made an error. This  
is going to take me quite a while, sir.





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Q. Take your time.

3

A. I found the arrhythmia.

4

Q. I could tell you, Miss

5

Costello, that I have looked at his chart and unless

6

I have missed it I could not see anywhere where he

7

had a prior history of apnea.

8

A. Perhaps what I am doing in

9

my memory when I testified before I didn't have this

10

chart in front of me. Here it does say that --

11

THE COMMISSIONER: What page, Miss  
Costello?

12

THE WITNESS: It says 34 and under

13

it it says 2C.

14

MR. SHINEHOFT: Q. What page?

15

A. 34 and underneath 34 is 2C.

16

It says that Kevin then became bluish and mom took

17

him to St. Joseph's Hospital where he was found to

18

be in shock with no obtainable blood pressure. I am

19

not doing too well on the writing. He was felt to

20

be in septic shock, something about hypothermia.

21

So, I may have used the wrong word in apnea but my

22

memory was that he almost was in a state of arrest

23

at that time that he appeared at St. Joseph's

24

Hospital.

25

Q. Well, he was sick when he was







H3 1  
2 at St. Joseph's Hospital.  
3 A. Yes.  
4 Q. But would you agree with me  
5 that he did not suffer from apnea?  
6 A. I haven't read the whole  
7 chart. I read it this time that he was in severe  
8 shock at that time and my memory, unless you let me  
9 have time to look through all this, is that he was  
10 almost in a state of arrest, which would include  
11 apnea, but I don't know whether it went that far.  
12 Q. Well, I would suggest, Miss  
13 Costello, that you are the first medical person that  
14 has come here --  
15 A. I am not medical.  
16 Q. No, medical person, a doctor  
17 or a nurse, that has indicated in any of the history  
18 of this child that he suffered from apnea.  
19 A. All right then, I interpreted  
20 it from this episode at St. Joseph's Hospital from  
21 memory without having anything to look at.  
22 Q. Well, if you assume that he  
23 did not have apnea --  
24 A. Yes.  
25 Q. -- but just had the  
arrhythmias, would you say that his condition would be





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less severe than a child who had both the arrhythmias  
and the apnea situation?

3

4

A. Yes.

5

Q. And I understand again that  
you were on duty when he arrived at the Hospital?

6

7

A. Yes.

8

Q. Could you tell me the pro-  
cedure, what happens when a child is first admitted  
from another medical institution? I assume he is  
taken to the ward?

10

11

A. He could stop with his family  
in the Admitting Department but if he came from another  
hospital, he probably came straight to the ward and  
one of his parents went back to Admitting maybe.

12

13

14

Q. Did you see him when he was  
admitted to the ward?

15

16

A. I didn't see him the minute  
that he was admitted to the ward and I think that is  
in some notes that I have made, that I was going to  
a meeting when his admission was expected, that I  
assigned it to an RN and asked the teaching team  
leader to assist because I knew that the team leader  
was busy and that I would be at a meeting on the ward.

17

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Q. Now, there has been evidence  
given that normally what happens is one of the

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H5 2 cardiologists examine even briefly when a person  
3 is transferred into the institution. I believe that  
4 Dr. Fowler looked at the child. Is that your  
5 recollection?

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A. I would expect that he did.  
Yes, it is my recollection, although I didn't see him  
do it.

Q. Okay. And then you saw this  
child when for the first time?

A. Probably 3:30 or so on the  
day of his admission.

Q. How did he seem to you at  
that time?

A. He did not seem extremely ill  
at that time.

Q. You had also indicated in your  
evidence that this child had high potassium levels  
at St. Joseph's and at McMaster. Is that your  
evidence?

A. That is from my memory, not  
from this.

Q. I see. Well, again, in the  
chart there are the potassium levels. I refer you to  
page 50, if I could, Miss Costello. If you would look  
at the third line down, fourth line down, the lytes, the







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potassium.

A. Yes.

Q. First of all, what do you consider is the normal level or normal range for potassium?

A. About 3 to 5.

Q. 3 to 5?

A. Yes.

Q. Do you see where his potassium levels are recorded?

A. Yes, I do.

Q. And what was his potassium level on his arrival at The Hospital for Sick Children?

A. I don't know how to read this page. I don't see a date. I see times which seem to begin at 2230.

Q. Well, the date is right underneath the time. Evidence has been given that it was 3.9. If you look to the far right-hand column it is third to the end and it is the third column down.

A. At 8:30 on March 10th?

Q. Yes.

A. Yes.

Q. That was 3.9?





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A. Yes.

3

MS. SYMES: Excuse me, Mr. Shinehoft,  
are you suggesting that this is a Hospital for Sick  
Children record?

5

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MR. SHINEHOFT: No, I am not at all.  
I am just asking if she would indicate to the  
Commission what her understanding of the potassium  
level of this child was upon his admission to the  
Hospital.

10

11

THE COMMISSIONER: Which hospital  
though?

12

13

MR. SHINEHOFT: The Hospital for  
Sick Children.

14

15

THE COMMISSIONER: Well then, Miss  
Symes' point is that this is a record not from The  
Hospital for Sick Children at all.

16

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MR. SHINEHOFT: Part of it is from  
St. Joseph's I understand and part of it is from  
McMaster and part of the readings are from The  
Hospital for Sick Children, if you look right at the  
bottom of the page.

21

22

THE WITNESS: It says St. Joseph's  
at the bottom of this page.

23

24

25

MR. SHINEHOFT: Q. And then if you  
take a look there is a line and it says McMaster





1  
H8 2 Medical Centre.  
3 A. Yes.  
4 Q. And it is my understanding that  
5 towards the right-hand side of the page --  
6 THE COMMISSIONER: Well, aren't there  
7 these computer printouts that we could refer to, that  
8 would be a lot more reliable.  
9 MR. SHINEHOFT: Yes.  
10 THE COMMISSIONER: If you look at  
11 the potassium.  
12 MS. SYMES: On page 81 of the chart,  
13 sir, there is a computer printout from The Hospital  
14 for Sick Children.  
15 THE COMMISSIONER: Yes.  
16 MR. SHINEHOFT: Q. Do you see the  
17 area dealing with the potassium levels, Miss  
18 Costello?  
19 A. On page 81?  
20 Q. Yes.  
21 A. Yes.  
22 Q. It would indicate that his  
23 potassium level at 1745 on March 11th was what?  
24 A. 3.9.  
25 Q. And would you consider that  
normal or abnormal?  
A. Normal.







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Q. Did you, in your treatment of this child, have any concerns about his potassium level while you were the Head Nurse?

A. No. On the day of his admission is the only day I was his Head Nurse because he was in ICU when I came the next morning.

Q. I understand.

A. That day, no.

Q. Okay.

A. Neither had I read his admission history and unless you give me some time I still haven't.

Q. Now, you indicated that Dr. Fowler called the Coroner because of the unusual behaviour of the father. Do you recall seeing that?

A. That is something, I don't know whether it is in here. Dr. Fowler told me that.

Q. Well, if I could refer to Volume 95, page 1267, line 13, I believe you said:

"A. I think that Dr. Fowler told me that he had called the Coroner about Kevin Pacsai's death. The reason that he gave me was that as he considered it more or less unusual behaviour of the father."





1  
H10 2 A. I will stand by that statement.  
3 Q. Do you recall that?  
4 A. Yes, I do.  
5 Q. And did you meet Kevin's  
6 father?  
7 A. Not on the day of Kevin's  
8 death and I can't recall for sure whether I met him  
9 on the day of Kevin's admission. I think I did.  
10 Q. Did Dr. Fowler tell you that  
11 Kevin's father was upset?  
12 A. Yes.  
13 Q. Very upset?  
14 A. Yes.  
15 Q. Concerned?  
16 A. I don't know if he used those  
17 words, I would take that for granted.  
18 Q. Well, do you recall what  
19 Dr. Fowler did tell you?  
20 A. Do you want me to state that  
21 here?  
22 Q. Well...  
23 A. Pardon, no?  
24 Q. The father was upset, con-  
25 cerned?  
A. Yes.





H11 1  
2 Q. Nervous?

3 THE COMMISSIONER: Obviously there  
4 is some reason why the witness doesn't want to state  
5 it. How does it help us on the cause of death of  
6 the child? I am not stopping you from doing this  
7 but I am just wondering perhaps if you really want to  
8 pursue it.

9 THE WITNESS: Do you want me to tell  
10 Mr. Shinehoft what my concern was?

11 MR. SHINEHOFT: No, that's okay.

12 THE COMMISSIONER: I would rather  
13 you didn't but I am waiting for Mr. Shinehoft.

14 MR. SHINEHOFT: I will not pursue  
15 that area of questioning, Mr. Commissioner.

16 THE COMMISSIONER: All right.

17 MR. SHINEHOFT: Q. I understand  
18 that dealing with what happens when you run out of  
19 drugs on your particular ward that if you ran out of  
20 a particular drug and it was available from an  
21 adjacent ward that you would go and often borrow these  
22 drugs from the adjacent ward, is that correct?

23 A. Yes. Theoretically when the  
24 pharmacy is open we would get it from the pharmacy  
25 but I think that someone in this room has asked me,  
or maybe Miss Cronk before when we were in this room,







1  
H12 2 wouldn't you naturally go to the other ward first to  
3 save time, yes.

4 Q. Well, that was going to be  
5 my question. What would you do if the pharmacy were  
6 open and you had access to the drugs from the  
7 adjacent ward?

8 A. I would then have a choice  
9 to make and it would depend on how quickly I wanted  
10 the drug what choice I would make.

11 Q. Okay. What would be the  
12 normal practice if there is such a thing as a normal  
13 practice?

14 A. I think that that would be  
15 influenced by how quickly I wanted to give that drug  
16 and if I had time to get it from the pharmacy. If  
17 I foresaw that I did not have the drug before the  
18 dose was due I would certainly go to the pharmacy  
19 but if I wanted to give that drug right now, felt it  
20 was necessary to give it right now, I wouldn't wait  
21 to go to the pharmacy, I would borrow it from the  
22 adjacent ward.

23 Q. So, are you saying it depends  
24 on the timing of the drug as opposed to the drug  
25 itself? Like, would it matter if it were digoxin  
or propranolol or lasix or for certain drugs you would





1  
H13 2 have  
3 /more of a tendency to borrow from adjacent wards and  
4 certain other drugs you would try and get to the  
5 pharmacy?

6 A. Can I say it in my own words?

7 Q. Sure.

8 A. Not particularly in that way  
9 but lasix is one you mentioned and if a stat., which  
10 means immediate, lasix were ordered, or even if  
11 lasix were ordered, if it is a new order it likely  
12 is stat. because it would be indicated to remove  
13 fluids from a baby in congestive heart failure. That  
14 type of thing I would probably borrow it anywhere and  
15 give it right away. Digoxin stat. I would do the  
16 same thing. But digoxin b.i.d., which means twice  
17 a day, no, I would probably get it from the pharmacy.

18 Q. I see. So it depends on --

19 A. The need of the child.

20 THE COMMISSIONER: I wonder if I  
21 could interrupt.

22 MR. SHINEHOFT: Sure.

23 THE COMMISSIONER: You may not know  
24 this at all, Miss Costello, but was there any  
25 particularly good reason for having two medicine  
rooms? I mean, what benefit is there?

THE WITNESS: Just an easy one is that





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one wasn't much bigger than this for a person to stand in, so it would have been difficult.

THE COMMISSIONER: If the place had been designed with just one medicine room it would be bigger and more comfortable?

THE WITNESS: Well, it was very difficult for even two people to get in there, especially if they were large people.

THE COMMISSIONER: No, I was just asking why when they designed it did they do that?

THE WITNESS: I told you I think I can answer you in two ways and continue with this thing about crowding. All the babies' medications, many of them were due at 9:00 a.m. Can you imagine nine nurses getting into something like this thing. The other thing is that I suggested that when that ward was designed the decision had not been made whether it would be one ward or two wards.

THE COMMISSIONER: Well, even if it is two wards, the way the rest of it is designed it would seem sensible to me to have one medicine cabinet. I know absolutely nothing about this sort of thing.

THE WITNESS: It would have been ideal to have two treatment rooms and two utility







1  
H15 2 rooms and two supply rooms but it costs too much.  
3 However, I have never seen two wards sharing a  
4 medicine cabinet.

5 THE COMMISSIONER: Never have?

6 THE WITNESS: And if you can think  
7 of the other wards in the Hospital which were designed  
8 exactly like 4A/B but they were adjacent like this,  
9 they too share utility rooms, kitchen, et cetera,  
10 but they do not share medicine rooms.

11 THE COMMISSIONER: Yes, all right,  
12 thank you, sorry.

13 MR. SHINEHOFT: Q. When you, and  
14 I believe you have answered this question before, I'm  
15 not sure, borrowed medicine or any kind of medication  
16 from the other medication room, no record of this  
17 would ever be kept, is that right?

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A. Only if it were a narcotic and controlled drug and I think the other time they mentioned if it were a large quantity like a whole bottleful we would want to repay that, or for budget purposes.

Q. You would repay the ward but would you note what you took and how much you took?

A. Only if it were a narcotic or control we would; and if we were borrowing a large quantity we would have to write it somewhere say the night nurse probably borrowed a full bottle, probably the clerk would return that in the morning.

Q. And where would you write that?

A. I think there was a little book on the clerk's desk that said, "Borrowed and returned", perhaps there. There was also just a page of green paper that we just made notes of things that we wanted to remind other shifts of, just a communication tool, it could have been on that.

Q. Those papers, were they discarded at the end of the shift?

A. The borrowing and return book would stay there until it got full, and the green pad would stay there until it got full as well but then it would be discarded because it is just hour-to-hour communication.





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Q. You indicated you were working the day that this baby was admitted to the ward and you were working the day shift, is that right?

A. Yes, I was.

Q. And you went home what time approximately?

A. It is difficult to say, four or five maybe.

Q. And you have given evidence as to your impression of the child. Would you have seen the child just before you went home?

A. Close to that time, yes.

Q. And then you would have made a report to the night shift?

A. No, I wouldn't because they came on duty at 7:15, 1915, and I would have been gone, the team leader from days would have done that.

Q. What was your reaction when you found out that this baby had died in the early hours of March the 12th?

A. I found it unexpected, but I also knew that he had become ill in the night and had gone to ICU, I found that unexpected as well.

Q. Did you consider that unexpected as well?







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A. Yes.

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Q Were you surprised that the

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demise of the baby took place over such a short  
period of time?

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A. Yes.

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MR. SHINEHOFT: Thank you very much,

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I have no further questions.

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THE COMMISSIONER: Thank you.

9

Mr. Tobias?

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MR. TOBIAS: Thank you, Mr. Commissioner.

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THE COMMISSIONER: Unless Mr. Shanahan

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turns up you will be next, Ms. Symes.

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CROSS-EXAMINATION BY MR. TOBIAS:

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Q Miss Costello, my name is

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Warren Tobias and I act for the family of Jordan Hines  
who I believe was a patient of yours on Ward 4B in  
March of 1981?

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A. Yes.

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Q I would like to ask you some

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questions first of all just generally with respect to  
the responsibility of the team leaders, particularly  
the team leaders that were on duty during the long  
night nursing shift, during the period with which  
we are concerned, which would have been July the 1st  
of 1980 to some time towards the end of March, 1981.

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Do I understand that in effect at night the team leader assumes some of the responsibilities that you would exercise during the day as the Head Nurse of the ward?

A. Yes, she does.

Q. Now, with respect to your own particular duties as Head Nurse, can you tell us where would you physically spend most of your time; would you be making rounds of the ward or would you be primarily in the nursing station?

A. I was moving a lot, I rarely sat down. I worked in the nursing station, I worked in all of the babies' rooms, sometimes I was in my own office which does not appear on this diagram, it was down in the south corridor; rarely was I there before the end of my shift, I might have been there around 5 p.m.

Q. Now, you say that you had an office, I take it that some of your paper work at least would have been done in the office as opposed to at the nursing station?

A. It would, but I rarely did that until about 5 p.m. unless I specifically delegated somebody to be in charge because I was going to be in there for the day. I also went to meetings on





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that ward and other places in the Hospital.

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Q Do I understand it then that during the day when there was paperwork or clerical work to be done specifically by you, that you would do that at the nursing station?

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A Usually, but I guess I can think of one instance where I carried a book, something like the assignment books, those two books with me when I was doing rounds with the doctors, and I was discussing with them, but while they were doing teaching that I had heard before I would be doing the assignments.

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Q What I am really getting at is this: during the typical working day you would not usually be spending that much time in your office you were on the ward?

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A Yes. Another time I would be in my office, besides paperwork would be an interview, for example a hiring interview, an evaluation of someone.

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Q Now at night would the team leader utilize your office?

A No, it was locked.

Q Therefore if she had paperwork to do, or anything of a clerical nature, where would







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she conduct that business from, from the nursing station?

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A. Likely at the station, yes.

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Q. Now one of the things that I am interested in, and I am showing you the diagram, this is the physical set-up of the ward; do I take it that this counter here (indicating) in the middle of the ward was basically set up where desks were behind it, or counters, working counters?

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A. Yes.

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Q. Who would normally occupy the positions immediately behind the counters?

13

A. During the day, clerical staff.

14

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Q. And was there a specific spot along this counter that would be reserved for your use during the day?

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A. No. No, if I worked at a nursing station during the day it would be behind those counters.

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Q. So we are referring to that area in the interior part of the nursing station?

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A. When I was in there, yes.

22

Q. Now, was that --

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A. Although I could talk on the phone or talk to the secretary, I wasn't restricted





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from going in the front area, I didn't usually work there.

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Q. Would that situation change at night, where would the team leader be when she was in the nursing station doing her paperwork?

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A. I think you will have to wait until you get one of them here, I wasn't there.

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Q. Do I take it though that they would have been either behind the counter, or back in the interior of the nursing station?

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A. I think that is likely.

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Q. Now, can you tell me - it is obvious to me that although I analogized the position of head nurse and the team leader during the long night nursing shift, there was certain areas of responsibility that were exclusively exercised by you?

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A. Yes.

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Q. And they would not be taken over at night by team leaders, obviously team leaders were not required or authorized to hire and fire staff?

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A. No.

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Q. And they would not have been working on budgets, would they?

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A. No.





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Q. With respect to the actual assignments, the patient care assignments, do I take it that you told Miss Cronk the other day that you would actually draw up the assignments during the day and enter them in the Ward 4B assignment book?

A. Yes, they usually do.

Q. Do I also take it that the team leader did have some responsibility, however, and some right, if I can use that word, to alter those assignments as required?

A. Yes, she did.

Q. Once she came on duty?

A. Yes, she did, she had both.

Q. So clearly the team leader would have some ability to in effect control the destiny, if I can use that phrase, in terms of where nurses were at any given time during the long night nursing shift?

A. Yes.

Q. Now with respect to the assignments themselves, and the scheduling, I understood you to tell Miss Cronk yesterday, that generally speaking a nurse would not know what her particular assignment was on a long night nursing shift until she came on duty, is that correct?







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A. Yes, it is.

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Q. Would the team leader

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necessarily know what the scheduling was in advance?

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A. No.

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Q. So she again would only find

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out what the assignments were when she came on duty?

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A. Yes.

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Q. And she would make whatever

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alterations to the scheduling she deemed appropriate  
at that time?

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A. There is a little difference

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I guess. If I made Friday's assignment on Thursday,

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I knew on Thursday what it was; and similarly if the

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team leader made Sunday's on Saturday, she knew what  
she had made.

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Q. I was going to ask you how far

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in advance would you normally do the scheduling?

17

A. Do it today to go until

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tomorrow morning.

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Q. Were there occasions when you

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would schedule longer than that, let us say to cover  
a weekend perhaps?

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A. No, I wouldn't, because I

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wouldn't know the factors, for example, would staff be

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ill; would the children be more ill; would they have

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gone home; would more be admitted.

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Q. Did you have regular days off?

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A. Generally I was off Saturday  
and Sunday but not necessarily always.

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Q. Who would it be that would  
make up the nursing assignments and the schedules for  
the Saturday and Sunday night shift?

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A. Likely the team leader on days  
would do it, and the team leader on nights would have  
the option to also.

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Q. And so again regardless of who  
actually physically drew up the scheduling, the  
typical situation would be that those schedules would  
not be made up in advance, and basically the team  
leader really wouldn't know what the schedules were  
until she came on duty, is that correct?

16

A. Yes.

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Q. Now what about with respect  
to specific kinds of care, and I am particularly  
talking about constant nursing care. I believe you  
told Ms. Cronk the other day that the team leader did  
have some discretion in terms of altering the  
assignments for constant nursing care, and ordering  
constant nursing care where none had been ordered  
previously, provided that she had sufficient staff





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members to do so, was that your evidence?

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A. And for constant care I think she would also be consulting with the doctor, and yes, the other factors too.

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Q. I believe you did tell Ms. Cronk though, did you not, that she had the right to assign constant nursing care without speaking to the doctors if she deemed it appropriate?

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A. I think that I hedged a little more than that, I said that she could alter the assignments so that the patient load for one nurse was less than it had been, possibly even to one, but it wasn't officially constant nursing care until she discussed it with the doctor. I also think she wouldn't have the requirement to do that without discussion with the doctor, or without the child being so ill that she would be discussing it with the doctor.

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Q. I believe you also indicated that there were occasions when she had to consult the nursing supervisor, is that correct?

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A. If she did not have adequate staff to be able to do this on her own unit, yes, she would.

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Q. What I am getting at is this:







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assuming that she did have sufficient staff to change the arrangements with respect to certain patients regarding constant nursing care --

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A. Yes.

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Q. -- and assuming that was the judgment call that she made either at the beginning or some time during her shift when a doctor was not available, she could in effect make that decision herself?

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A. She could, but I can't consider that a baby would be ill enough to require, even in her mind, constant care without the doctor and the supervisor being notified of that fact about the baby's illness primarily rather than the constant care.

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Q. Do you know whether or not, especially during the nine-month period with which we are involved, whether or not that in fact happened to your knowledge; were there instances where constant nursing care was assigned by the team leader without consulting with the physician or the nursing supervisor?

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A. I am not aware, but I think I am trying to tell you that rather than be concerned whether they assigned constant care, I would really be concerned if a baby were considered by them to be







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ill enough to require this and they have not notified the doctor or supervisor, or both, then I would really see that as an exception; and no, I am not aware that it happened.

Q. Now with respect to the actually physical set-up of the ward, I understand that Room 431 was immediately adjacent to the nursing station, do I have that correct?

A. Yes.

Q. And on the other side Room 418 was immediately adjacent to the nursing station?

A. Yes.

Q. And those were typically the rooms wherein we would find the youngest and the most gravely ill patients, is that correct?

A. I think I went through this with Miss Cronk, saying, yes, the youngest would be there, and the more ill of the younger ones would be there, but an older child could not fit in there physically. If we had a most ill child who was 12 years old he would not fit in that room.

Q. I am specifically referring now to the combination of being very young and being very ill?

A. Yes, they would be in that room.





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Q. In one of those two rooms?

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A. Yes.

4

Q. Generally speaking?

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A. Yes, they would.

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Q. Unless they were so ill of  
course that they had to be in Intensive Care?

7

A. Yes.

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Q. Now, particularly with respect  
to the distance between Room 418 and 431, I believe  
that Mr. Hunt asked you about this the other day, and  
I think you also gave some evidence to Miss Cronk. I  
believe your best estimate of the distance between  
the doorway into Room 418 and 431 was somewhere around  
20-30 feet?

14

A. Yes, that's a guess.

15

Q. Not a very great distance at all?

16

A. No, it is not a long walk.

17

Q. Now in fact it is a shorter  
walk to get from the nursing station into one of those  
rooms, is it not?

19

A. Yes, it is.

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Q. In fact that walk can be  
accomplished in a very, very short time?

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A. Yes, definitely.

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Q. Now, generally speaking at night

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on the ward, do you agree with me that in essence each nurse basically would discharge the functions assigned to her, and in the normal sense operate pretty much independently of other nurses?

A. Theoretically, yes, but they certainly could help each other.

Q I realize that. One would expect them to help each other, but what I am saying is in effect each nurse had an assignment, they were assigned a certain number of patients, they knew what rooms they were responsible for and they basically went about their duties. You agree with me that it wasn't part of a nurse's responsibility to keep tabs on other nurses?

A. No, except the team leader.







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Q. Well, okay, the team leader  
aside. So that basically they pretty much functioned  
as individual entities; am I correct?

A. Yes.

Q. And each would go about their  
own business without particularly noting what other  
nurses were doing, unless of course they were  
requested specifically to render assistance?

A. Well, I guess you are right,  
but nobody was invisible. It was a pretty close  
area where we all worked together. I do not think  
anyone would specifically be trying to note things,  
but I do not think it would be impossible either.

Q. No, and I agree with you that  
no one was in visible, but it is obvious and it is  
common sense that if a nurse were rendering patient  
care in Room 432 she would not know what was going  
on in Room 431 and vice versa; you agree with that  
obviously?

A. No, not at that time she would  
not know.

Q. Fine. Now, with respect to  
the team leader, it is interesting because that is  
the exception. It was really the team leader's job  
to know where everybody was and what everybody was





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2 doing; is that not correct?

3 A. Yes.

4 Q. Was that not really her  
5 responsibility?

6 A. Well, she had a lot more  
7 responsibility than that, but that is a factor of  
8 it but that makes it sound like it is a policeman's  
9 duty to know where they were at every minute. It  
10 was not that type of a duty. It was more related  
11 to knowing that patients' conditions and needs and  
12 these were being met by the staff that she had.

13 Q. I do not mean to suggest for  
14 a minute that the team leader should be analogized  
15 to the role of a policeman.

16 A. No.

17 Q. But what I am saying is that  
18 was one of her responsibilities, was to know where  
19 everybody was and to make sure that everything was  
20 getting done properly and an acceptable level of  
21 patient care was being administered?

22 A. Yes.

23 Q. Is that not only one of her  
24 duties but a pretty important part of her duty, I  
25 would think?

A. It is a primary duty.





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Q. All right. So that it would be the team leader, in fact, who would be in the best position to know where all of the other members of the team were at any given time and who they were treating and what kind of treatment they were given?

A. Yes.

Q. Okay, fine. Now, with respect to the nursing station itself, there has been some evidence given regarding the windows in the nursing station, and I do not mean to go into a lot of detail on this point because I think Mr. Hunt covered it quite well, but I do have a couple of things that I do not particularly understand about it.

It was my understanding, and I can tell you that this understanding arises from a walking tour I had been invited along on at the Hospital last month, that generally speaking, the nurses do not really make a conscious effort to watch the babies in infant Rooms 418 and 431 through those windows. Now, that was the situation when I went on the walking tour. Would you agree that that was also the situation when you were at the Hospital?

A. I think what I tried to say to Mr. Hunt yesterday was that at any time that







1  
2 I or any other nurse or any other person chose to  
3 or had reason to believe we wanted to, we could  
4 look through those windows. That is not where we  
5 spent our day looking through those windows because  
6 it would be a better view to go directly into the  
7 room.

8 Q. This is my point. You could  
9 avail yourself of the opportunity, but if you wanted  
10 to check on an infant, it would seem to me infinitely  
11 more appropriate to actually go into the room and  
12 stand by the patient and check on the patient that  
way?

13 A. Yes.

14 Q. So that on a regular basis,  
15 and this is the only point I am trying to bring  
16 out, although the windows were there and may have  
17 been put there conveniently or not, they were not  
18 regularly utilized for the purposes of checking what  
was going on in the rooms; do I have that correct?

19 A. No, they were.

20 Q. Now, on the other hand, if one  
21 were in Room 431, one would have a fairly clear  
22 view, I would think, of what was going on in the  
nursing station; do you agree with that?

23 A. Again, if one chose to look  
24  
25







1  
2 through the window, yes.

3 Q. Fine. Now, one of the things  
4 that I noticed when I was invited to go to the  
5 Hospital, and I want to ask you whether this was  
6 also the norm during the time that you were at the  
7 Hospital, especially on the long night nursing shift,  
8 I take it that the infant Rooms 431 and 418 would  
9 basically be dark?

10 A. Not totally dark, no, they  
11 would not. They would be darkened to some extent.

12 Q. I did not mean to suggest  
13 totally darkened, but when I was there, for instance,  
14 I noticed that none of the overhead florescent light-  
15 ing was on; the lighting was all wall lighting or  
16 night lighting or very, very low key lighting, and  
17 the room was basically fairly dark. Was that the  
18 way it was when you were at the Hospital?

19 A. Often it was like that. We  
20 could also have the overhead lights on or we could  
21 have the fixed lights over the babies' beds on.

22 Q. Again, you were there primarily  
23 during the days?

24 A. Yes.

25 Q. Is it safe to assume, or we  
should not assume, do you know whether in fact the





1  
2 norm at night was that the overhead lighting was  
3 off and that the room was fairly dark?

4 A. Yes.

5 Q. Now, on the other hand, on the  
6 other side of the window we have the nursing station,  
7 and I would take it -- please correct me if I am  
8 wrong -- that that was fairly well lit at all times  
9 with overhead florescent lighting?

10 A. Yes, it was. There was a  
11 control switch to put them off, but it would not be  
12 done very often.

13 Q. Now, I know that you are hardly  
14 an expert on lighting plans or electrical lighting  
15 grids, but do you agree with me that the net effect  
16 of that, the overall effect of that would be that  
17 it would probably be far easier to observe what was  
18 going on in the nursing station from inside the  
19 room than to observe what was going on inside the  
20 room from the nursing station?

21 A. Yes, but I do not back-  
22 track on what I said to Mr. Hunt that no matter  
23 what the light was, if I wanted to look in through  
24 that window into that room I could and I could see.

25 Q. I agree. If one wanted, with  
intention, to actually observe what was going on in the





1  
2 room, one would only have to position themselves  
3 very, very closely to the glass and cup - their  
4 eyes to take out the reflection and one could see.  
5 I agree with that. Is that basically the point you  
6 were trying to make to Mr. Hunt?

7 A. Yes, that it is not impossible.

8 Q. Fine. Now, we have talked  
9 about the physical distances with respect to the  
10 nursing station and in particular, I am interested,  
11 I think you can understand, in Rooms 418 and 431.  
12 I noticed something rather interesting.

13 Mr. Commissioner, it might assist you  
14 and it might assist everyone else if they looked at  
15 Exhibit 304.

16 THE COMMISSIONER: I have it.

17 MR. TOBIAS: Q. It appears that  
18 the way the ward was laid out, the entrances to  
19 Rooms 418 and 431 are in fact on an angle in terms  
20 of the nursing station. What I mean by that is this:  
21 the counter itself protrudes out from the hallway?

22 A. Yes.

23 Q. You see my point?

24 A. Yes.

25 Q. You agree with that. And in  
effect, if one were sitting behind the counter doing







J8

1

2

some clerical work --

3

A. The front counter, yes.

4

Q. The front counter, I am

5

referring to --

6

A. Yes.

7

Q. -- one really would not be

8

able to see the actual entrances to Rooms 431 and 418

9

because they would, in effect, be looking around a

10

corner; do you agree with that?

11

THE COMMISSIONER: You are sitting

12

where, Mr. Tobias? You are sitting in between the two  
counters?

13

MR. TOBIAS: Q. Yes, in between

14

the two counters, behind the front counter and in

15

front of the rear counter, and these are counters

16

very much like the bench behind which you are sitting.

17

They angle out at the sides and in effect you have

18

got to look over the bench and around the front of

19

it to look down the angled corridor at the entrances

20

to the two rooms.

21

Now, do I have that right or am I

22

misinterpreting it or misstating it? You spent a

23

lot more time there than I did.

24

A. I think you are right, but I

25

just want to show you one thing.





1

2

Q. Yes, please.

3

4

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6

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11

A. Yes, they would have to look around the corner of the counter, but this is one corridor going along here even though this nursing station counter is in it, so they do not have to look around the corner like they would to look into some other corridor.

12

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Q. Fine. I understand the distinction. My point is only this: they would not have a clear unobstructive, simple, easy view of the entrances?

A. No.

Q. Fine. Now, more so if they were working behind the back counter, back into the interior of the nursing station?

A. Then they would see the entrances -- look through the window at the entrance from the inside of the room.

Q. Precisely, and if they did not look through the window they would not see the entrance at all?

A. No.

Q. Now, what was the interior part of the nursing station generally used for?

A. It was used by nurses, by





1  
2 doctors, by all professionals like physiotherapists  
3 and the pharmacologist on the ward.

4 Q. Well, I am now specifically  
5 relating my question to the use that nursing staff  
6 would make of it.

7 A. They would use it for recording  
8 and they could use it for a meeting, and at night  
9 they used it for their lunch or coffee break.

10 Q. Now, in particular, what I am  
11 interested in is this: you say they used it for their  
12 recording. I take it that the routine was that  
13 the administration of drugs would be recorded in the  
14 patient charts some time after the nurse had finished  
15 the administration of all her medication on that  
16 shift?

17 A. It did happen that way. It was  
18 not necessarily that way. She could record it any  
19 time after she gave it to the child.

20 Q. Let me be fair. I was also  
21 told, I believe by Nurse Browne, that it depended  
22 on the individual nurse. At times if they were  
23 very busy they might wait until the end of their  
24 shift and might indeed sit down in the nursing  
25 station and record in the charts at the end of  
their shift; do I have that correctly?







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11 A. Yes. If you are speaking of medicines, it is likely that the medicines were not recorded quite that long away, but they may give all their 0900 meds and if there is no interruption record them, then if there is an interruption that they have to do something with a patient, it might be a little later. But I think it is unlikely that they would not record any medications all day long.

Q. All right, fine. Now, with respect to the clerical staff, I take it the clerical staff would spend all of their time in the nursing station?

A. They were receptionists and they had duties like delivering mail around the rooms or they had duties like ordering stock, which would require them to be in the utility rooms. It is likely that when we had two, one of them would be in the nursing station at all times.

Q. Now, with respect to the team leader, you have already told me with respect to your own responsibilities that you were around the ward moving about; you did not spend all of your time in the nursing station behind your desk. Does that also apply to the team leader on the long night nursing shift?







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A. Yes, it does.

4

5

6

7

Q. All right. Now, was it the normal routine for the team leader herself to be assigned to a particular room and a particular patient or group of patients, or did she, in effect, float on the ward in order to supervise?

8

9

10

11

A. She floated, but because of quantity of nursing available for the patient load, she occasionally would be assigned a minimal, likely one, maybe two patients.

12

13

14

15

16

Q. That is really not what I am getting at. What I am saying is this: it seems to me that if a nurse came on and was assigned to patients A, B and C and was not asked for assistance by another nurse, normally she would not have anything to do with patients D, E and F, correct?

17

18

19

20

A. That is right.

21

22

23

24

25

Q. So to the extent that she might have, that might be a little unusual, not strange, not bizarre, but unusual?

A. Yes.

Q. Now, with respect to the team leader, she may indeed have had certain responsibilities for patients A, B and C, but in effect, she was also responsible for the workings of the whole ward





1  
2 and all the patients?

3 A. Yes, she was.

4 Q. So there would be absolutely  
5 nothing unusual whatsoever about her administering  
6 care to patients E, F and G; do you agree with that?

7 A. No, there would not be, but  
8 if these patients belonged to an RN, likely this RN  
9 would know what she was doing and if it was an RNA  
10 and she was doing other than giving the medicines,  
11 for example, if she fed the baby, she would have to  
12 tell -- or changed him because we weighed diapers  
13 for their output too, then she would have to tell  
the nurse who had the baby what she had done.

14 Q. Yes, I agree with that. And  
15 you are also right that the RN would know that she  
16 had administered some type of care, unless of course  
17 the RN was not there when the care was administered  
and the team leader forgot to mention it.

18 A. Well, that is a possibility.

19 Q. Okay, fine. Now, I would like  
20 to talk to you for a moment, if I can, about the  
21 distinction that we got into the other day between  
22 ampules and vials.

23 Now, first of all, do I have it  
24 correctly that to you as a nurse the distinction is  
25





1  
2 an important one?

3 A. It is important because I have  
4 to know how to access the medication that is inside  
5 these things.

6 Q. Well, I mean in a sense other  
7 than that. If I can just digress for a minute,  
8 I, as a lawyer, have to look up certain things,  
9 and it is pretty basic to me that some things I have  
10 to look up in the Criminal Code and other things  
11 I have to look up in the Rules of Practice, which  
12 deals with civil law. That distinction is a pretty critical  
13 distinction in terms of my training. If I was  
14 worried about a procedural rule in a civil court,  
15 I would not be looking in the Criminal Code for it.

16 Does the same type of distinction  
17 hold true with respect to the nursing profession in  
18 terms of vials and ampules?

19 A. I do not think it is as  
20 relevant. It would probably help me to find it,  
21 but the rule that guard my profession says that I  
22 will read the label on the container three times  
23 before I administer the medication, and for that  
24 reason, it would not matter what it came in, I would  
25 have to read the label.

We are supposed to read it when we







1  
2 take it off the shelf, when we pour it and when we  
3 put it back on the shelf.

4 Q. I understand that entirely.

5 THE COMMISSIONER: You do not read  
6 it all at once?

7 THE WITNESS: We are really trying  
8 to guard.

9 MR. TOBIAS: Q. I understand that  
10 entirely, and obviously my particular example was  
11 perhaps a little bit too dramatic, but what I am  
12 trying to get at is this: to you, a vial is some-  
13 thing quite distinct from an ampule, and you explained  
to us the differences the other day?

14 A. Yes.

15 Q. Now, do I have it correct  
16 the primary difference is that with respect to  
17 a vial it is something wherein you can store multi-  
18 doses; that is the whole idea for the rubber stopper,  
19 and you take it out with a syringe and you put it  
back on the shelf for use again?

20 A. Yes, more than likely when it  
21 has been opened it will be kept in the refrigerator,  
22 but it would be put back for use again.

23 Q. In other words, you do not  
24 throw it away and you are not required to use the  
25





1

2

entire quantity in the vial?

3

A. No.

4

Q. Now, with respect to an ampule,

5

an ampule is something that you broke?

6

A. Yes.

7

Q. And once broken you cannot

8

put back in the fridge or the cupboard?

9

A. No.

10

Q. So you either use the whole

quantity in the vial or you throw it away?

11

A. In the ampule, yes.

12

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BmB.jc  
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Q. In the ampule rather, I'm  
sorry. That goes to show you how I don't appreciate  
the distinction, I am confusing them already and I  
have only been on the topic for 30 seconds.

In any event, do I understand that  
after a time on duty you would become used to certain  
drugs being available in ampules and certain drugs  
being available in vials?

A. Yes.

Q. Am I correct?

A. Yes.

Q. And that would as well have  
some significance for you?

A. It does have significance, yes.

Q. Okay, fine. Now, you told  
Ms. Cronk the other day that the drug ampicillin  
basically came in a vial?

A. Yes.

Q. Okay. Do you recall at any  
time during the nine-month period that we are  
involved in, do you recall ampicillin being available  
in ampule form?

A. No.

Q. Okay, fine. Now, I think you  
also told Ms. Cronk the other day that the drug





K.2

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2

gentamicin again came in a vial?

3

A. Yes.

4

Q. Do you recall it being available

5

in ampule form at any time during that nine-month  
period?

6

A. No.

7

Q. All right. Now, with respect

8

to the drug digoxin, what form did it come in?

9

A. In oral, tablets and oral elixir

10

and the intravenous solution came in an ampule.

11

Q. Okay. Now, let's talk about

12

that for a minute. I understand what a tablet is

13

and I understand what elixir is and that is to be  
given orally?

14

A. Yes.

15

Q. In terms of an intravenous

16

administration it came you tell me in ampules?

17

A. Yes.

18

Q. Was it at any time during the

19

nine-month period available in intravenous form in  
vials?

20

A. No.

21

Q. All right. So that when you

22

were going to administer a dosage of digoxin intra-

23

venously you would expect to find it in an ampule,

24

25







K.3

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you would break the ampule and either use all the drug in it or throw the balance away and then you would administer it?

5

A. Yes.

6

7

Q. And that drug had to be checked twice?

8

9

10

A. I wouldn't administer it, I wouldn't administer I.V. digoxin, no nurse did. I just have to keep really listening so I don't tangle myself up.

11

12

13

Q. No, that's correct, and I didn't mean to mislead you, we have had evidence that nurses were not to administer dig. by I.V.

14

15

16

17

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21

22

All right, now with respect to the gentamicin and the ampicillin, let me put this scenario to you. Let us assume that one intended to administer to a child gentamicin and through an honest mistake, an honest error, what they drew up into the syringe was digoxin. In effect they would have to make two mistakes, wouldn't they; the first mistake being the misreading of the label, the second mistake is, they would have to fail to miss the significance that the drug they were drawing up was coming from an ampule and not a vial?

23

A. Yes.

24

25





K.4

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Q A pretty unlikely scenario,  
don't you agree?

4

A Yes, and I certainly hope it is.

5

6

7

Q Okay, fine. Now, with respect  
to ampicillin, I believe you gave evidence to  
Ms. Cronk the other day that the way that was given  
was, you would draw up the powder, is it, in a syringe?

8

9

10

11

A No, I think we agreed that you  
would draw up water or saline and inject it through  
the vial that contained the powder until you got a  
liquid and then withdraw that liquid.

12

13

14

15

Q I see. So, in terms of the  
drug ampicillin, you never had a situation where there  
was a batch of it or a quantity already mixed in the  
saline solution sitting on the shelf waiting as a  
liquid to be administered?

16

17

18

19

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A It could have been because we  
talked about vials being multi-dose, so, you could  
mix it, label it right on the label what date and  
time you mixed it and at what strength and put it in  
the fridge.

21

Q Was this a common occurrence?

22

A Yes.

23

24

25

Q All right. So that there  
were vials of a liquid solution ampicillin ready to  
be injected?





K.5

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A. Yes.

3

Q. And they would be in the fridge?

4

A. Yes.

5

Q. But again they were in vials,  
not ampules?

6

A. Yes.

7

Q. Okay, fine. Now, I would like  
to ask you some questions specifically with respect  
to Jordan Hines. The first thing I would like to  
ask you is this. I understand, correct me if I'm  
wrong, that initially Jordan Hines was in isolation,  
was he not?

12

13

MS. SYMES: If this witness is going  
to be asked questions about patient Hines, could she  
please be given his chart?

14

15

MR. TOBIAS: Certainly. Mr. Registrar,  
I believe it is Exhibit 103.

16

17

THE WITNESS: I don't recall that he  
was and I don't know if I am going to be able to  
find that on his chart. If he were in isolation  
then I assume that the whole of Room 431 was in  
isolation for some reason.

18

19

20

21

MR. TOBIAS: Q. Well, perhaps I could  
assist you. Mr. Registrar, as well, perhaps Volume 1  
of Exhibit 32A.

22

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K.6

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THE COMMISSIONER: I'm sorry, do you  
mean Tab 1?

4

5

MR. TOBIAS: No, what I'm referring to  
is Volume 1 of Tab 32A, Tab 14, Mr. Commissioner.

6

THE COMMISSIONER: All right.

7

8

MR. TOBIAS: Q. All right, I am looking,  
Miss Costello, at the 4B assignment book for March.

9

Your indulgence for a moment, Mr. Commissioner.

10

March 6th, 1983.

11

THE COMMISSIONER: March 6th, is that it?

12

13

MR. TOBIAS: Yes. I am looking  
particularly under the assignment for Ms. Lyons.  
There is a notation there "Hines 438".

14

15

THE COMMISSIONER: You said 1983, but  
do you mean 1981?

16

17

MR. TOBIAS: I'm sorry, 1981, Mr.  
Commissioner, my mistake.

18

19

20

Q. I am looking at the notation  
under Mrs. Lyons "Hines 438". Does that indicate to  
us that on the 6th of March Jordan Hines was in  
Room 438?

21

A. Yes.

22

23

Q. All right. And is Room 438 a  
single patient room?

24

A. Yes.

25

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K.7

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Q Now, it is my understanding,  
and you may not have had an adequate opportunity to  
review the chart, but there has been evidence given  
before this Commission by, I think Dr. Vera Rose,  
that initially this child was suspected of having  
sepsis and that is why it was in isolation in a  
single patient room.

A All right. I don't recall it,  
but I will accept it.

Q All right. Well, the important  
thing is, now that I have told you that, does that  
refresh your memory at all. Do you have any  
recollection of that particular issue?

A No, I don't.

Q All right. Well then, perhaps  
you won't be able to help me on my next question but  
I am going to ask you anyways.

I understand from reading the 4B  
assignment book and looking specifically under the  
assignment of Mrs. Bracewell that on the Saturday  
for some reason I see Hines moved to Room 431. So,  
in effect he was taken out of isolation.

A Probably.

Q All right. Can you assist me  
at all as to why he was taken out of isolation on the  
Saturday?





K.8

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A. There must have been a doctor's indication that he no longer needed it.

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4

Q. Okay, fine. And can I assume from that ---

5

6

THE COMMISSIONER: I am having some trouble with this.

7

8

MR. TOBIAS: I am sorry, Mr. Commissioner, if I can assist you.

9

10

THE COMMISSIONER: Oh, yes, it is 431.

11

MR. TOBIAS: 431 on Saturday the 7th and 438 on Friday.

12

THE COMMISSIONER: Yes, yes, that's right, thank you.

13

14

MR. TOBIAS: Q. Now, I am going to ask you to assume that that is correct because it certainly seems to make sense to me.

15

16

A. Yes.

17

18

Q. That he was taken out of isolation because a doctor would have given that order?

19

20

A. Yes.

21

22

Q. Is that a reflection do you think of his clinical status at the times in terms of whether or not they were worried any longer about infection?

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K.9

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A. I think it is an indication they weren't worried about transmission of infection.

Q. That's my point. So, to that extent they had the infection under control, or the suspected infection under control and that he wouldn't transmit that to other infants?

A. Yes.

Q. Okay, fine. Now, initially upon Jordan Hines being admitted to the Hospital, and I understand that admission to have occurred in the very early morning hours of March 6th, 1981. You wouldn't have been on duty during the early morning hours I take it?

A. No.

Q. And by that I mean before 7 a.m. But you were on duty later that day according to the WIN sheets?

A. Yes.

Q. Do I have that correct?

A. I didn't check the WIN sheets but I think I was.

Q. All right. Do you recall from your own recollection if you can, and if you can't, feel free to refer to the medical record of Jordan Hines, what his condition was upon admission?







K.10

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A. Looking at page 61.

3

Q. Yes..

4

A. He came with a chief complaint  
of apnea, bradycardia and tachycardia.

5

Q. Yes.

6

A. Which are a potentially grave  
concern. Again looking at that page, he was gray/blue  
in colour, shallow breathing. You don't want me to  
read the whole thing I'm sure?

10

Q. No.

11

A. But looking at those he was  
somewhat ill.

12

13

Q. All right. Are you aware of  
what drugs were prescribed for him initially?

14

A. I will have to look in this.

15

16

Q. If I can perhaps assist you.  
I'm looking at the Medication and Treatment Record  
which appears at page 83 in the medical chart.

17

18

A. Yes, I have finally found it.

19

Q. It appears that he was being  
treated with antibiotics - ampicillin and gentamicin.

20

21

A. Yes.

22

Q. Do you recall some concern at  
that time on the day originally of his admission with  
respect to the possibility of pneumonia?

23

24

25





K.11

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A. I don't recall, but I can't rule it out without further reading.

4

Q. In any event, the administration of drugs such as ampicillin and gentamicin which are commonly used antibiotics would be consistent with some concern over septis or some sort of upper respiratory infection such as pneumonia?

8

A. Well, I can't narrow it. It would be to do with some kind of an infectious condition, which pneumonia would not be outside of that group.

(2)

11

12

Q. All right, fine. Now, did you have any discussion or any conversation with Mr. and Mrs. Hines on the day of the baby's admission to the Hospital that you can recall?

13

14

15

A. I can't recall.

16

17

Q. Okay. So then obviously you wouldn't recall anything that you might have said to them regarding his condition?

18

19

A. No.

20

Q. Okay, fine. Now, you have told me that tachy/bradycardia and periods of apnea are obviously cause for some concern and can be grave symptoms. What was your impression of Jordan Hines when you saw him on March 6th? Was this a gravely

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K.12

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ill baby, was his life in any way being threatened?

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A. It's not an easy question to answer because he didn't look gravely ill at the moment that I saw him but any baby who swings from tachycardia and bradycardia and has apneic periods at any moment can become gravely ill.

Q. All right. Did you not tell Ms. Cronk the other day, and I believe it was Thursday, in your evidence however that in your view his condition was not fatal, not life threatening and that that is why some of the nurses expressed some concern and some worry when he arrested and couldn't be resuscitated? Do I have that evidence correctly?

MS. SYMES: Could you please give the page reference?

THE WITNESS: I think that is correct but I think that I also ---

MS. SYMES: Could I just have the page reference?

MR. TOBIAS: I'm just trying to find it for you. Page 1201, Volume 94, line 13:

"Q. What was your impression of his condition when you last saw him prior to his death?







K.13

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"A. Not terminal, not fatal, not  
expected to die.

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"Q. Was he considered by you or  
any other members of the nursing staff  
to be at any degree of grave risk  
prior to his death?

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"A. No, we knew he had a history of  
apnea, which is a potentially  
frightening thing to happen unless it  
is picked up. Other than that, no."

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Now, before you go on and answer the  
question, I would like to point out that it would  
appear to have been your evidence that you were off  
on the Saturday and the Sunday. So, in response to  
Miss Cronk's question of what was your impression of  
his condition when you last saw him, that would have  
been on the Friday, the day of his admission. So,  
have I correctly summarized your evidence that it was  
not terminal, not fatal, not expected to die?

19

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A. No, but potentially dangerous,  
I think you also read that out.

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Q. Yes, this is true, potentially  
dangerous.

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A. Yes.

Q. In fact, your own words were  
this:





K.14

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" ... which is a potentially  
frightening thing to happen unless it  
is picked up."

Now, by that I take it you mean more  
than diagnosed?

A. Somebody be there at the instant  
that the child gets into trouble.

Q. All right, and one of the ways  
that you try and do that in a hospital is to put the  
child on an apnea monitor?

A. Yes.

Q. And a cardiac monitor?

A. Yes.

Q. Both of which have settings?

A. The apnea monitor doesn't have  
settings as I recall it.

Q. Okay. How long would a period  
of apnea have to last before the monitor went off?

A. Seconds.

Q. Seconds?

A. Yes.

Q. Can you help me, 10 seconds,  
15 seconds, 20 seconds?

A. No, I'm not sure enough of my  
facts on that.





K.15

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Q. Okay.

3

A. I think it would be minimal.

4

Q. When you were there on 4B, and

5

we are dealing now particularly in March of '81 when

6

this baby was admitted, did the apnea monitors have

7

settings, could you control when they would go off?

8

A. I don't recall - oh, no, you

9

couldn't control when they would go off. The idea of

10

using an apnea monitor is that it goes off when the

baby's respiration stops.

11

Q. Let me not get confusing with

12

my question, Miss Costello. What I really meant by

13

that is this. There has been previous evidence given

14

I believe by Dr. either Kauffman or Hastreiter, and I

15

can't give you a volume or page number, Ms. Symes,

16

to the effect that on some apnea monitors you can set

17

it so that if there is an apnea longer than 5 seconds

18

it goes off, the alarm sounds, or you can set it to

10 seconds or 15 seconds or whatever.

19

Did you have those kinds of apnea

20

monitors on 4B during this time?

21

A. I can't recall whether we did

or not.

22

Q. You might have, you might not

23

have?

24

25







K.16

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A. Yes.

3

Q. Okay, fine. And I think you

4

also told Ms. Cronk the other day that as well an  
alarm went off on the cardiac monitor?

5

A. Yes.

6

Q. Do I have that correctly?

7

A. Yes.

8

Q. All right. Now, to your

9

knowledge, and you don't have to look at the medical  
record because it is there and it speaks for itself,  
I just want your own personal knowledge, other than  
at the time of the terminal events did his apnea  
monitor ever go off?

10

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A. No, I can't answer that without  
reading the record.

14

15

Q. All right. Do you recall it

16

going off on the Friday?

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A. That's beyond me to think four  
years ago whether an apnea monitor went off.

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Q. Do you recall if there was a resuscitation effort made on the Friday when you were in the Hospital?

A. There was not.

Q. Was a Code 23 or 25 called for Jordan Hines on the Friday when you were in the Hospital?

A. No. I think I want to go back two questions when you --

Q. Yes.

A. -- say resuscitation effort. Not an official one, but if a baby has apnea, the immediate thing to do is stimulate the baby by touch. I don't know whether that happened.

Q. You don't know whether that happened?

A. I don't know whether that happened. I know for sure a resuscitation effort didn't.

Q. Had you done it?

A. No, I don't recall I did.

Q. Now you also said the other day that the death of Jordan Hines was discussed and you made an interesting response, and this is at page 1205, Mr. Commissioner, of Volume 94.





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A. By now, I have forgotten your question, the beginning of it.

MR. TOBIAS: Q. The beginning of this question was that you indicated to Miss Cronk the other day that there was a discussion regarding the death of Jordan Hines; particularly she asked you this question at line 7:

"Q. Did you discuss the death of Jordan Hines with any of the cardiologists on the two wards?"

"A. Yes. I cannot tell you specifically but I worried about him and I am sure that I did."

And I would like you to explain to me if you can what you meant when you said, "I worried about him". What was it that worried you and troubled you about this particular child?

A. At the time of his death we did not know a reason why he could not live.

Q. Was there anything else?

A. No.

Q. Surely there had been other patients on the ward in the eight months preceding this who died unexpectedly, situations wherein you did not have a readily available explanation for the





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cause of death. Why Jordan Hines? Why does that stand out?

A. I think that I have been trying to say whenever anyone has asked me about the nurses' concern for the patients dying, that unless we had an explainable reason from the doctors of why the patient died, yes, we worried about whether everything was done right for them.

Q. You specifically told us several times during your evidence on the first day or, I'm sorry, your evidence on the second day, that in particular the resuscitation efforts with respect to Hines were long.

A. Yes

Q. They were stressful.

A. Yes.

Q. And the nurses found it very upsetting. That is another thing I would like to explore with you just for a minute. As I understand it your evidence was that, (a) it was a very long resuscitation effort, (b) it was characterized by periods when he would respond and then he would slip away again.

A. Yes.

Q. And he would respond again and slip away. My only question is this: Surely







1  
L4 2 nurses see that all the time.

3 A. And they are upset every time.

4 Q. All right. That is a good  
5 answer. Is that why they were upset in the case of  
6 Jordan Hines, because they are upset whenever they  
7 see that?

8 A. It is part of the reason.  
9 His was longer, it happened more often and I expect  
10 that it was pretty stressful to hope they had him  
11 back and they didn't and they went on and they  
12 couldn't.

13 MR. TOBIAS: Mr. Commissioner, I  
14 have about another ten minutes and I was just about  
15 to turn to a new area and perhaps this might be the  
16 appropriate time to break.

17 THE COMMISSIONER: Yes.

18 Until 2:30.

19 MR. TOBIAS: Thank you, sir.

20 --- luncheon recess.  
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Costello  
cr.ex. (Tobias)

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--- on resuming at 2:30 p.m.

THE COMMISSIONER: Mr. Tobias.

MR. TOBIAS: Yes. Thank you, Mr.  
Commissioner.

Q. Miss Costello, just before  
the luncheon recess we were discussing some of your  
specific concerns with respect to Jordan Hines, and  
you were telling me of some of those concerns  
centred on the length of the resuscitation efforts.

Do you recall the other day Miss  
Cronk asked you about your subsequently learning  
that it was the view of some of the people at the  
Hospital, and particularly the consultant pathologist,  
that Jordan Hines had succumbed to Sudden Infant  
Syndrome? Do you recall that discussion?

A. Yes.

Q. I would like to draw your  
attention to a particular exchange with respect to  
the issue of Sudden Infant Death Syndrome.

This appears, Mr. Commissioner, at  
Volume 94, starting at page 1206, line 22.

There was some discussion, just by  
way of introduction here, about the incidence of  
SIDS occurring in the Hospital, and you were asked:

"Q. In your experience and judgment





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is that an unusual occurrence?"

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"A. I suppose it is no more

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unusual in the Hospital than it is

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in the community at large. Those

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children do die suddenly."

7

I take it that you don't have any  
particular background with respect to Sudden Infant  
Death Syndrome, is that correct?

9

A. Not very special, no.

10

Q. Have you researched the

11

subject very carefully?

12

A. No.

13

Q. And are you familiar generally  
with the literature on the subject?

14

A. Yes, to some extent.

15

Q. So you have done some reading?

16

A. Yes.

17

Q. Are you aware of references

18

in the literature to the fact that the vast majority  
of cases of Sudden Infant Death Syndrome occur in  
a home setting as opposed to a hospital setting?

20

A. No.

21

Q. If I were to put to you that

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that is the more likely scenario, because in a home

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setting the children are not monitored, would you

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quarrel with that particularly?

A. No.

Q. And with respect to your evidence the other day, I believe that the Commissioner at the very next line, and this is on page 1207, at line 4, asked you --

"THE COMMISSDONER: Well, would the monitors not make a difference?"

And you said:

"Yes, if we recognized a situation and had him on a monitor as we did for Jordan then we should have been able to --"

And then the Commissioner said:

"Well, what I am saying..."

And he goes on to pose another question.

I was going to ask you if you could possibly finish that statement. Do you recall what you were going to say? Let me read it back to you.

A. I can start over again now with it. I think it would be to respond quickly.

Q. Are you of the view generally that the advantage of having a SIDS candidate in hospital on a monitor is because you can act quicker, your chances of preventing his death are that much better?







AA4

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A. Yes.

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Q. And in fact isn't that exactly why SIDS babies or SIDS candidates are monitored?

5

A. Yes.

6

7

Q. And is it true, and I ask you this just in a general sense, recognizing that you are not specifically an expert on Sudden Infant Death Syndrome, is it not true that as a result of the modern techniques that we have with monitors there has been some modest degree of success in preventing SIDS deaths?

10

11

12

A. Yes.

13

14

Q. Okay. Fine. Now while we are on the subject of monitors, it is my understanding that Jordan was on a cardiac and an apnea monitor.

15

16

A. Yes.

17

18

Q. Are you aware, or is there anything in the chart which might help you with respect to which monitor went off first on the night of his arrest?

19

20

A. That is on the chart.

21

22

Q. I think you are probably looking for page 68.

23

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25

A. I have lost the chart, Jordan





1  
AA5 2 Hines' chart, it is not here.

3 THE COMMISSIONER: We have a tidy  
4 Registrar, he has taken mine too.

5 MR. TOBIAS: Q. Now actually, Miss  
6 Costello, we have actually had evidence on this  
7 subject from other witnesses almost ad nauseum, so  
8 I don't intend to spend a long time on it. I just  
9 want to make sure that I have interpreted the note  
10 right, and I recognize that I will get a chance to  
11 ask the author of the note when she is called.  
12 Perhaps you can assist me, and I am referring now  
13 to the statement of Meredith Frise which says:

13 "I Meredith was feeding the baby  
14 in Room 431..."

14 THE COMMISSIONER: I'm sorry, where  
15 is this?

16 MR. TOBIAS: Page 68, Mr. Commissioner,  
17 I am sorry.

18 Q. This is under the Nurse's  
19 Progress Notes for 8.3.81, and there is an entry at  
20 4:10. I take it that is the note of Meredith Frise?

21 A. Yes, it is.

22 Q. "I Meredith was feeding the  
23 baby in Room 431..."

24 That is the room incidentally where Jordan Hines was  
25





AA6

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that night.

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"...the monitor on Jordan went off  
and then stopped. I went to get  
up and check him. At that moment  
the apnea monitor went off."

8

Do you read that as I do that it was  
the cardiac monitor that went off first?

9

A. Yes, I do.

10

11

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Q. Fine. Thank you. You also  
said the other day in your evidence in chief, and this  
appears at page 1210 of the same volume that I have  
been reading from, Volume 94, and it is a comment  
that I read with some curiosity and I thought perhaps  
you could expand on it for me. The exchange I am  
referring to starts at line 17, Mr. Commissioner, on  
page 1209, and the question was:

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"Q. Was that the earliest time at  
which the child appeared to be  
experiencing difficulties as far as  
you were aware?"

20

21

And I think Miss Cronk was referring to the note of  
Meredith Frise at 4:10 on the 8th of March 1981. The  
answer was:

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"A. At that particular time, yes,  
we did note that he had had periods of







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apnea since his admission to the  
Hospital as well as before."

"Q. I meant that evening."

"A. Well I do not know whether  
he had an apnea period before that  
evening, but that was the first  
serious one."

What did you mean by that statement,  
"That was the first serious one"?

A. I think you and I probably  
tangled with this one this morning and I tried to say  
to you that I can't tell you for sure that he didn't  
have a brief period of apnea where somebody stimulated  
him by touch, but I know that he did not have one  
that required resuscitation efforts.

Q. Prior to the terminal events --

A. Yes.

Q. -- setting in?

A. Yes.

Q. So that the best you can  
do is -- you can't be one hundred per cent sure there  
were prior periods of apnea; there might have been  
but certainly nothing that would require any  
intervention by way of a Code 23 or Code 25?

A. No.





AA8

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Q. Or any efforts at resuscitation?

3

A. No.

4

Q. All right. Thank you. I would like to spend just a very, very brief moment if I can on the question generally of drug error. Again we have spent an awful lot of time on this and I don't intend to belabour the point. I would just like you to help me if you could with respect to a very few observations that might be germane. I take it that you were at the Hospital until when, Miss Costello?

11

12

A. August 1982.

13

Q. I am sorry?

14

A. August 1982.

15

Q. And when was the unit dose system put into place at the Hospital?

16

A. Sometime after that.

17

Q. So it would have been post-August 1982?

18

19

A. Yes.

20

Q. When did you start your duties at The Hospital for Sick Children this last time?

21

22

A. August 1976.

23

Q. So you were there about, by

24

25





1  
AA9 2 my calculation, six years?  
3 A. Yes.  
4 Q. Now Miss Browne when she  
5 was here giving evidence did a very good job and  
6 explained to us the system in place for the adminis-  
7 tration of drugs at the Hospital. I don't want to  
8 belabour the Commissioner again with all of the  
9 details; but I understand that essentially what would  
10 happen is a doctor would write up an order, that  
11 would be transcribed onto a medication ticket, the  
12 medication ticket would be put into various slots  
13 which go by time, and that is how you would know  
14 at what time to administer the drugs, and the entry  
15 would also be made in the patient's chart following  
16 the administration of the drug.  
17 A. Yes, before the administration  
18 of the drug it would be written in on the record  
19 sheet and on the care plan as well.  
20 Q. So there was a series then  
21 of checks and balances and safeguards in place?  
22 A. Yes. There was a --  
23 Q. By way of that system as I  
24 understand it?  
25 A. Yes.  
Q. Now was that system in place







1  
AA10 2 in August of 1976 when you started to work at the  
3 Hospital?

4 A. Yes.

5 Q. Did the system in any signi-  
6 ficant manner change between August of 1976 and the  
7 nine-month period with which we are dealing?

8 A. The transcription didn't,  
9 except the order sheets, sometime after, around 1980,  
10 September, came with a carbon copy so that the  
11 prescription, the original, went directly to pharmacy.  
12 There was no other difference in the system.

13 Q. Other than that it was  
14 basically the same system?

15 A. Yes.

16 Q. And obviously it was a system  
17 that had been thought out in a fair amount of detail  
18 I would take it?

19 A. Yes.

20 Q. And well practiced?

21 A. Yes.

22 Q. Now after the nine-month  
23 period which we are dealing with, up until the time  
24 of going to the unit dose, as far as you are aware,  
25 and you can only answer me with respect up to  
August of 1982, were there any other significant







AA11

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changes in the system?

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A. No.

4

Q. So was essentially the same  
system in place throughout the time period with which  
you were at the Hospital?

5

6

A. Yes.

7

8

Q. Except the change you have  
already advised me of with respect to the carbon  
copy?

9

10

A. Yes.

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Q. Now by the same token you  
gave some evidence to Miss Cronk regarding the  
incident reports on drug administration errors with  
respect to 4B during the nine-month period. Obviously  
if there were drug errors committed on 4B you would  
know about it?

16

A. Yes, I would.

17

18

19

20

Q. I realize that obviously  
you are the Head Nurse on 4B and it is not your job  
really to be aware of what is going on at other  
places in the Hospital. But in the Hospital as a  
whole, was the drug administration system the same?

21

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A. If you discard that one thing  
I told you about the order sheet that came in gradually  
and we were only experimenting with it.





ANGUS, STONEHOUSE & CO. LTD.  
TORONTO, ONTARIO

Costello  
cr.ex. (Tobias)

1865

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AA12 2 Q. But at any given time I am  
3 saying was there a uniform policy at the Hospital?

4 A. I think so.  
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Q. During the nine-month period in which we are concerned, do you have any knowledge as a member of the staff at that time and as the head nurse on 4B of any problems with respect to dramactically increased incidents of drug errors in other parts of the Hospital?

A. I am not aware of any.

Q. Now, I recognize that it may have been, it may have happened, we do not know because we have no evidence to say that it did happen, but as far as you know, that was not the case?

A. No. Can you remind me? I think the incidents on 7G occurred after this period, did they not?

Q. Yes.

A. All right. Now, then, my answer remains no.

Q. My point is simply this, Miss Costello, that there has been evidence given here, and I am referring obviously to the evidence of Dr. Spielberg, that part of the explanation, part of the explanation for this rash of sudden and unexpected deaths during this nine-month period might relate to drug error, that that was a possibility







BB2

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2 that we had to take very seriously and we had to  
3 consider. But it would appear that if that explana-  
4 tion is a valid explanation, it would appear from  
5 what you have told me, and please me correct if I  
6 am drawing the wrong conclusions, that the problems  
7 with respect to errors occurred primarily over a  
8 nine-month period on one or two particular wards in  
9 the Hospital rather than in the Hospital as a whole.

10 A. No. I do not understand it  
11 that way, but I do not even know who I am talking to  
12 now, but whoever acquired the incident reports from  
13 the Hospital, I do not assume that they acquired  
14 them from the whole Hospital.

15 Q. Well, I am not saying that  
16 there has been any evidence here that indicates  
17 that there was a rise in the incidents of drug  
18 administration errors elsewhere in the Hospital.  
19 I am saying it has been postulated as a theory,  
20 something that we should look at. If the theory  
21 were to be accepted, one of the conundrums that I  
22 have is that it would appear, as we apply it to  
23 our situation, that it was restricted in time to  
24 the nine-month period and in location to the Wards  
25 4A/B.

Now, all I am asking you is does that





BB3

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seem very plausible to you? Can you think of a  
reason why ---

3

4

A. Is your hypothesis that some-  
thing like digoxin errors that we did not know and  
did not record were cause of death, that is what  
you are talking about in a hypothetical way, is it?

5

6

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Q. That is correct.

9

A. If that happened it was a  
dramatic increase on 4A.

10

11

Q. If indeed that is the explana-  
tion, it appears to have been limited to that ward  
and to that period of time?

12

13

A. Yes, it does.

14

Q. Because the deaths seem to  
stop in March of 1981?

15

16

A. Yes.

17

Q. Now, I am asking you, and  
I realize you can put it no stronger than -- I mean,  
you are not an expert, you are not a pharmacologist,  
you are a head nurse, but surely you have some  
feel for these things and some experience. Does  
that seem plausible to you? Does it not bother you  
that it would be so restricted as to time and  
location?

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A. Well, you are still talking





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about a hypothesis, because I still have not agreed  
that that is what happened.

3

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Q. Yes, I am asking only about  
the hypothesis.

5

6

A. Definitely.

7

MR. TOBIAS: Those are all my  
questions, thank you, Mr. Commissioner.

8

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THE COMMISSIONER: All right.  
Thank you, Mr. Tobias. Mr. Shanahan?

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11

Mr. Rosenberg, should I be calling  
on you to ---

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13

MR. ROSENBERG: That is all right,  
Mr. Commissioner. I do not want to question.

14

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THE COMMISSIONER: Well, I am happy  
to do it if you want to be called on.

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17

MR. ROSENBERG: Well, not for this  
witness, thank you.

18

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THE COMMISSIONER: All right, thank  
you.

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22

CROSS-EXAMINATION BY MR. SHANAHAN:

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24

25

Q. Good afternoon, Mrs. Costello.  
My name is Shanahan and I act on behalf of the  
families of Lombardo and Dawson.

I wonder if perhaps we could just  
start -- Dawson comes first in time and it is as







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good a place as any to start here, if I could just review with you some of the factors with respect to Dawson, and then I am going to do the same with Lombardo, and I will not be long doing it.

As I understand Dawson, you do have some independent recollection of that child and that child's mother?

A. Yes.

Q. All right. Did you know anything about the background of that child, that is, you know, that she was 11 months of age, that she had had a couple of operations and a couple of stays at the Hospital before and had got through them successfully and had been returned home to her mother?

A. Yes.

Q. You knew that much, all right. And you knew that her mother had been treating her at home with digoxin and giving it to her, amongst other treatment, but had been giving her digoxin at home herself?

A. I do not know that I specifically knew that.

Q. I am sorry?

A. No, I did not specifically







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know that that I remember now.

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Q. Did you know, as well, ma'am that she had not been brought back to the Hospital for any specific or over any specific event, that essentially she was back for an assessment of her condition and due to her failure to thrive, as the expression has been?

A. Yes.

Q. And she was brought in by her mother. She had not had any further surgery and no definite surgery was planned or on the horizon, and she was in the Hospital for four days and that she died suddenly and unexpectedly; do you know the gist there?

A. I guess I forget because I thought that she was -- it was after surgery. My memory is not that good and I do not have the record.

MS. SYMES: If you are going to carry on with respect to detailed questioning, could this witness please be given a chart of the child.

MR. SHANAHAN: I do not think she needs the chart.

MS. SYMES: Could she please be





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given the chart?

THE COMMISSIONER: Well, no, your preface was is he going to carry on with the detailed questions, and if he is not going to, then -- let us have them out just in case.

MR. SHANAHAN: Q.It is going to take you an awful long time to sort of look over that four days and find out whether she had an operation or not.

A. Yes, it is.

Q. But if you can take from me, and if Ms. Symes thinks I have gone astray here she can correct me, take it from me that she did not have any operation in that four days, ma'am, and that she is there four days and she dies.

A. All right.

Q. I think it is the great big one there.

Now, when Ms. Cronk spoke to you about Dawson, I think you indicated that -- and I am referring you here to Volume 93, page 1048 and following, and the question was put to you:

"Q. Do you remember there being doubt expressed by the 4A nurses as to why that child had died?"





B8

1  
2 And you said "Yes". The question was put to you:

3 "Q. Were there similar doubts or  
4 similar concerns expressed by any of  
5 the Ward 4B nurses to your knowledge?"

6 Your answer is:

7 "A. About Amber Dawson?

8 Q. Yes."

9 And your answer is:

10 "A. It is difficult to answer.  
11 We worked very closely together and  
12 we probably did discuss it but I  
13 can't tell you, only that I know that  
14 they did."

15 At the bottom of that page there is another question:

16 "Q. All right. Did either of those  
17 deaths form the subject matter..."

18 Referring here to Lillian Hoos and Amber Dawson,

19 "...of a discussion between yourself  
20 and Mrs. Radojewski the other head  
21 nurse?"

22 And your answer at the top of page 1050:

23 "A. I can't honestly say yes or no,  
24 I don't remember. I think definitely  
25 I talked about Amber Dawson but I  
can't tell you definitely that it







BB9

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"was Mrs. Radojewski."

3

Then you expressed the concerns that you had  
following page 1051, in answer to the following  
question:

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"Q. All right. Well, what do  
you remember being the issue  
surrounding the death of Amber  
Dawson?"

7

8

9

And your answer is:

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A. Yes.

21

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Q. With respect to Dawson, would  
it be fair to say that -- first of all, did you  
ever deal with the mother when she did come into  
the Hospital with respect to that child's death; did





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you actually speak to her?

A. After the child's death?

Q. That is right.

A. No.

Q. You never had any conversation with her with respect to having an autopsy or a consent for an autopsy?

A. No, I did not.

Q. All right. Did you know anything about the fact that this was a case that, like Pacsai, many months later was referred to the coroner?

A. No, I did not.

Q. If I were to suggest to you, then, that the only reason this in fact goes beyond the stage of mere autopsy and that the coroner is called in is in fact because of the mother's concern, maybe not expressed in the same way as the Pacsai's, but her great concern, did you know that or hear that?

A. No, I did not.

Q. You did not, all right. The WIN sheets that I think you have already been taken through would establish that I think it was Nurse Trayner and the regular team, if I can call





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them that, Trayner, Nelles, Scott and the last name escapes me for the moment.

A. Christie.

Q. I am sorry, Christie. That regular team was on. I think Ms. Cronk took you through that, and I think they would establish, as well, the assignment book would establish that Nurse Nelles in fact was taking care of Baby Dawson. Can I refer you to that? It is Exhibit 32C.

THE COMMISSIONER: 32B?

THE WITNESS: I think he said C.

MR. SHANAHAN: Q. Do you have that in front of you?

A. I have got the book.

Q. If you can go to Tab 89, that will get you the 4A assignment book, and inside that are pages 60 and 61.

A. Yes.

Q. As I read that, on the right hand side of the page, it would indicate that Miss Moran, that would be Phyllis Trayner before she was married --

A. Yes.

Q. -- was in charge and that she had one child in Room 425?







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A. Yes.

3

Q. All right, and that Nelles

4

had four in Room 418?

5

A. Yes.

6

Q. All right. Would that indicate

7

to you, as well, that in fact this child would not

8

be on shared care and she would not be on constant

9

care?

A. That is right.

10

Q. Does that flow then, as I

11

gather from your earlier evidence, that generally

12

the decision to give a child shared or constant

13

care would be the doctor's decision based on the

14

seriousness of that child's condition?

A. Yes.

15

Q. And at times that you, in

16

the course of a shift, if a child's condition

17

deteriorated, you could in fact, until you spoke

18

to the Doctor, give it constant care?

A. Yes.

19

Q. So neither the doctors or

20

the nurses that were dealing with her on that

21

final evening felt that she needed either constant

22

care or shared care?

A. Yes. I do not know how I

23

24

25







1  
2 answered that now. Yes, they did not feel it.

3 Q. All right, that is what I  
4 gathered.

5 A. I guess I tangled myself.

6 Q. Did you ever hear of any  
7 difference of opinion between Nurse Nelles and  
8 Nurse Trayner with respect to the calling of a  
9 Code 23 or a Code 25 at this child's bedside as  
10 she was arresting?

11 A. No, I did not.

12 Q. Now finally, I think you  
13 indicated that the concern was so great here that  
14 in fact you approached I believe it was Dr. Rowe  
15 and you understood that Mrs. Radojewski, who was  
16 the actual team leader there or the actual nurse  
17 in charge there, she approached Dr. Contreras; is  
18 that right?

19 A. Yes. I am not saying right  
20 now without referring to something that ~~that~~ was all in  
21 relation to Amber Dawson.

22 Q. I am sorry?

23 A. I am not sure now that all of  
24 that was in relation to Amber Dawson. I would  
25 doubt that she was the only baby that caused us  
to do that.





1  
2 Q. Well, certainly I think you  
3 indicated that the concern and the surprise over  
4 Dawson was such that she was at least one of them,  
5 (a) that was discussed with Radojewski, and that  
6 you or Radojewski went on further to cardiologists  
7 with respect to getting a cause of death?

8 A. Yes, and we had one of those  
9 mortality meetings about it.

10 Q. All right, and in that that  
11 is reflected in your ward meeting and communciation  
12 books, where in fact there is an entry on July 31st,  
13 I think in the handwriting of Miss Radojewski,  
14 and again you have been taken through that, and  
15 the comment is made that with respect to the recent  
16 deaths the news of the cause for Amber is still  
17 unknown, pm, I take it a postmortem was done  
18 yesterday, we will get more info later but it  
19 seems there is an element of, and the quote is  
20 in the writing here, "surprise" re her cause of  
21 death?

22 A. I recall that.

23 Q. Subsequently, were you ever  
24 told what Amber Dawson's cause of death was?

25 A. No, not specifically. At some  
point after that I did know that she also had a





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2  
3 diaphragmatic abscess that was not known at that  
4 time, but I do not know exactly what caused her  
5 death yet.

6 Q. Does it come as a surprise  
7 to you here that a coroner was called in and that  
8 the coroner referred the postmortem to Dr. Kutz,  
9 who is in Pathology at Sick Children's and that he  
10 in fact did an autopsy and that he in fact did not  
11 find any immediate cause of death for Amber Dawson;  
12 would that surprise you if you heard that to this  
13 day?

14 A. No.

15 Q. It would not?

16 A. Well, I cannot argue with it.  
17 I told you that I never did hear a cause.

18 Q. So you still do not have a  
19 cause of death for Amber Dawson?

20 A. No.

21 Q. Another baby of concern here,  
22 if we can just look over Baby Lombardo here. Again,  
23 I just put to you briefly I do not think Lombardo  
24 you really recollected too much about?

25 A. No, I do not.

Q. All right. Review here the  
WIN sheets. The team on Lombardo was a little







1  
2 different. I take it it is Christmas time.  
3 Lombardo dies late in the night, early in the  
4 morning of December 23rd and it seemed to me that  
5 at Christmas there were fewer babies and fewer  
6 nurses around. On the WIN sheets here, if you  
7 can locate that -- do you have them in front of  
8 you, ma'am, 4A?

9 A. Yes, I just have not got the  
10 date yet. Yes.

11 Q. Now, going through that, we  
12 do have Nurse Trayner here as the team leader,  
13 and then there are other names that we are not  
quite as familiar with. There is Nurse Cooney.

14 A. We are looking at March 22nd  
15 night, are we?

16 Q. Looking at the night of  
17 December 22nd.

18 A. All right, yes.

19 Q. Nurse Cooney?

20 A. Yes.

21 Q. Nurse Ganassin?

22 A. Yes.

23 Q. Phyllis Trayner?

24 A. Yes.

25 Q. And then I see that as the





Costello, cr.ex.  
(Shanahan)

1  
2 full. Do you see anybody else?

3 A. That is 4A's night staff.

4 Q. That is 4A's.

5 THE COMMISSIONER: This is found --  
6 it is not obviously in the WIN sheet because -- it  
7 is in the ---

8 MR. SHANAHAN: The assignment book,  
9 sir?

10 THE COMMISSIONER: The assignment  
11 book. Are you reading from the assignment book?

12 MR. SHANAHAN: No, I am not.

13 THE COMMISSIONER: Are you reading  
14 from the WIN sheets?

15 MR. SHANAHAN: I am looking at  
16 the WIN sheets. Do you have that?

17 THE COMMISSIONER: I think what you  
18 have said is correct, but I do not read it from the  
19 WIN sheet. I see Mrs. Trayner with the long night.  
20 Are we looking at the night of the 23rd?

21 MR. SHANAHAN: Well, the 22nd  
22 because it would go over, sir, into the 23rd.

23 THE COMMISSIONER: I beg your  
24 pardon, yes, you are quite right, I am sorry. I  
25 have got the wrong date.

MR. SHANAHAN: Q. As I look at that,





Costello, cr.ex.  
(Shanahan)

1  
2 do you have it located, sir, that Ganassin, starting  
3 chronologically from the top ---

4 THE COMMISSIONER: Yes, I have,  
5 Ganassin, Cooney and Trayner.

6 MR. SHANAHAN: Q. Cooney and  
7 dropping down to Trayner, and as I look at it there,  
8 Ms. Costello, Ganassin is an RN?

9 A. Yes.

10 Q. Cooney is an RNA?

11 A. Yes.

12 Q. And Trayner is team leader  
13 and RN?

14 A. Yes.

15 Q. So there are two RNs and one  
16 RNA?

17 A. Yes.

18 Q. As we know, an RNA is not  
19 to give any sort of medication and certainly not  
20 to be giving any needles by way of IV or injection?

21 A. Definitely.

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Q. Okay, on the assignment book, if we can just look at that, it is the big one you had in front of you as well. With respect to Lombardo, Tab 87.

A. Which, 32A?

THE COMMISSIONER: 32C.

MR. SHANAHAN: Q. 32C.

A. Now Tab 87, can you tell me again?

Q. Yes, Tab 87.

A. Yes.

Q. I think the page is 179 - 178 to 179. As I read that, it seems to me that in the lower right-hand corner it covers the long night, Nurse Trayner is in charge and she has two children; she has one in 423 and one in 426. Am I right there?

A. Yes.

Q. Nurse Ganassin, who is the other RN, appears to have two in 418 and four in 425?

A. Yes.

Q. And then Miss Cooney, who is the RNA, she is relief on 4B?

A. Yes.

Q. All right. First of all, I was struck by the fact that as I total it up for 4B and







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compare it to other evenings, it seemed to me that there certainly weren't very many babies on the whole ward. Ganassin has a total of six, Trayner has got two, that's eight.

6

A. Yes, that's a reduced number of babies.

7

8

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Q. That's a reduced number of babies. And of course a reduced nursing staff and a reduced number of RN's, just two RN's?

10

A. Yes.

11

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13

THE COMMISSIONER: Didn't we hear that there was only one team on for the two wards at that time?

14

THE WITNESS: I think that started December the 24th at 7:15 in the morning.

15

16

THE COMMISSIONER: Oh, yes, all right.

17

18

MS. SYMES: Excuse me, Mr. Shanahan, but the WIN sheets for 4B show there were other nurses scheduled the long nights for that same night.

19

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THE WITNESS: Are you just talking about 4A?

21

22

THE COMMISSIONER: Yes, and 4B.

THE WITNESS: Oh, you said 4B, Mr. Grange?

23

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THE COMMISSIONER: No, it was 4A.





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MR. SHANAHAN: That's right.

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THE COMMISSIONER: Lombardo was in 4A.

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MR. SHANAHAN: That's right.

5

THE COMMISSIONER: All right.

6

MR. SHANAHAN: Did I say 4B?

7

THE COMMISSIONER: No, no you didn't.

8

Could you pause just a moment though, I just want to  
look at the 22nd WIN sheet. I take it that on the  
back of the WIN sheet for 4B there would have been  
reference to this transfer of Miss Cooney, is that  
correct?

11

12

THE WITNESS: Yes, there would. Actually,  
it is an error in that it doesn't appear on the front  
of the sheet of 4A.

13

14

THE COMMISSIONER: Well, it does appear  
in the front.

15

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THE WITNESS: Not on mine, sir.

17

THE COMMISSIONER: Well, it does on mine.

18

THE WITNESS: Well, her name does.

19

THE COMMISSIONER: 179, Miss Cooney

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relief 4B.

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THE WITNESS: Well, I guess I am looking  
at these, I'm sorry.

22

THE COMMISSIONER: Oh, in the WIN sheet.

23

I beg your pardon, you are quite right, I was looking

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at the assignment book. All right, thank you.

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MR. SHANAHAN: Q. All right. So, is it clear then on 4A we've got Trayner in charge, we've got one RN which is Ganassin and we've got one RNA which is Cooney?

6

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A. Who wasn't working on that ward that night.

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Q. All right. And in terms of their assignments we've got Nurse Trayner with two children, one in 423 and one in 426?

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A. Yes.

Q. And we've got Nurse Ganassin with two in 418, one of whom is Lombardo?

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A. Yes.

Q. And four over in 425?

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A. Yes.

Q. All right. Now, first of all, you would agree that it doesn't appear to be the regular team that we have had, and I understand why, because it was Christmas?

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A. Yes.

Q. All right. As well as that, again it would indicate that Lombardo doesn't appear to be on either constant care or shared care?

A. No.







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Q All right. Now, we have heard evidence here the only drug that Lombardo was on was the drug heparin. Do you ever recollect dealing yourself with heparin?

A Yes.

Q Is heparin, does it come as well in ampules?

A Yes.

Q All right. I am sure that the ampule itself is labelled heparin and I am sure the digoxin ampule is labelled digoxin?

A Yes.

Q But in terms of the colour of the liquids, are they similar in colour?

A They are both clear.

Q All right. And heparin would be given I.V.?

A Could be, yes.

Q All right. And it would have to be given by a nurse?

A Yes, by an RN.

Q All right. There was some hesitation there.

A I was just thinking for a while. Heparin would have to be given by an RN. I was





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trying to think, if it were given above the drip  
chamber by an M.D. if it were given a push.

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Q. All right. There has been some  
mention by yourself and by others with respect to the  
possibility of error. With respect to the possibility  
of error on Baby Lombardo, first of all, would you  
agree with me that the fact that Baby Lombardo was  
in I think Room 418, can take six patients?

9

A. Yes.

10

11

Q. All right. Two patients were  
in there that night.

12

A. Yes.

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Q. First of all, in terms of error,  
in assessing error, perhaps the error or one of the  
errors of the mixture of dose as it would be, it would  
be a factor here as to the age, the sex of the other  
child in the other bed. I mean, if we are dealing  
with a two year old boy as opposed to a five day  
old baby girl, there is going to be a difference  
there?

20

A. Yes, that's true.

21

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Q. As well as that, it would be  
important to know whether in fact that other child  
itself is on digoxin?

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A. Yes.

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Q All right. Bearing in mind that information might be forthcoming, would you agree as well that with respect to the giving of digoxin to Baby Lombardo, would a nurse be familiar with the term "contra-indicated", what that concept meant?

A Yes.

Q All right. A nurse would as well I take it know and be trained to observe and recognize the toxic symptoms or the symptoms of a toxic dose of digoxin?

A Yes.

Q Would it be fair to say that you know in your experience that those symptoms that a child exhibits as they would suffer from digoxin toxicity and the factors of the features of an arrest, many times they mimic each other and they are very similar? We have heard of seizures, ventricular fibrillation.

A I guess I would say they are the very final symptoms of a big overdose of digoxin, they could be similar, and the arrhythmia would be - I am distinguishing that from, as I said, what I thought was a high dose was about 3.

Q All right.

A You wouldn't see those things.







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Q A massive dose then would be  
similar symptoms?

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A Yes, I think so.

5

Q All right. Did you know, and I  
put to you that others perhaps knew as well it was  
common knowledge that there was obviously no routine  
post mortem testing for digoxin in people's bodies or  
in babies' bodies?

9

A Yes, we knew that.

10

Q All right.

11

A Or I know it now anyway.

12

Q Would you agree that for a dose  
of digoxin ---

13

THE COMMISSIONER: I am sorry?

14

THE WITNESS: I know it now since all  
this investigation and I was not aware it was being  
done, ever.

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THE COMMISSIONER: Well, in fact we  
have heard it wasn't done. Did you know it wasn't  
done, that was the question?

18

19

THE WITNESS: I didn't specifically  
try to find out what happened at each autopsy, so, it  
could have been done and I would not have known.

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MR. SHANAHAN: Q Well, you don't have  
any positive knowledge that it wasn't done? You know  
it now?

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A. Yes.

Q. But equally you didn't have any knowledge then that it was not being done?

A. I assumed it was not.

Q. All right.

A. Unless there were specific instances.

Q. All right. Would you agree with me that for Baby Lombardo to receive any dose, let alone an overdose of digoxin, would involve more than one error. Let me just outline it so you can have something to base your ...

A. Yes.

Q. First of all, you would have a baby that wasn't supposed to be on any digoxin and perhaps if that digoxin was even contra-indicated for getting digoxin.

A. Yes.

Q. So, it would involve the wrong drug given to the wrong child?

A. Yes.

Q. You had heparin being given by I.V. As I understand normally the digoxin would be given by mouth?

A. Yes, it would.





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Q All right. So, you would have the wrong drug to the wrong baby by the wrong route?

THE COMMISSIONER: Yes, Mr. Roland?

MR. ROLAND: Just so that my friend, I don't want to disturb my friend's cross-examination but I think the facts should be clear. He has suggested that the baby was only on heparin. I have looked at the chart and the baby was also on an antibiotic. It was Mandol, M-a-n-d-o-l, that is shown at page 92 of the chart. I have looked that up in the compendium and that appears to have been given, one way it is given is I.V. as well.

THE COMMISSIONER: What is the name of this drug?

MR. ROLAND: It is an antibiotic, it is Mandol, M-a-n-d-o-l, and Baby Lombardo was on that as well as heparin.

MR. SHANAHAN: Well, that takes me by surprise because up to this point the evidence has been it was only on the drug heparin.

MR. ROLAND: Well, I am only just looking at the chart.

MR. SHANAHAN: Q And finally then, ma'am, it would involve a mistake that that wrong drug being given to the wrong baby and by the wrong





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route, in fact, as we know there has been no incident report filed and there would be a further error compounding everything, that that nurse who had given it hadn't in fact filed an incident report about that dose?

7

A. Yes.

8

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Q. All right. Do you know now, ma'am, or have you ever heard that in fact an exhumed tissue of Baby Lombardo, who wasn't to receive any digoxin, that in fact digoxin has been found in the tissues. Did you ever hear that subsequently?

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A. Recently I have been reading some summaries of the babies' records and I probably read that but right now I haven't a specific memory in relation to this baby.

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Q. All right. One final thing, ma'am.

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Mr. Hunt took you through yesterday the days that Phyllis Trayner and Susan Nelles and the two together were on. If I could just for a moment take a look with you at the 4A WIN sheets. I would just for a moment look at those significant periods of time when Nurse Trayner was off duty.

A. Off duty?

Q. Yes. Now, I know there are many







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days, and I'm not going to go through them all when shift changes, but I'm talking about significant. One is immediately on page 2 of those WIN sheets, June 30th to July 6th.

Now, as I read that, although there are 16 hours of pay, it seems to me to be attributed to the 2nd and the 3rd where you see the notations that are there and it appears to me that in fact Trayner hasn't worked that whole week?

A. She didn't work that week.

Q. All right. In fact, we know then that during that time period that Baby Woodcock, as I have it, died on June 30th and on the previous -- if you turn to the previous page, Sunday, June 29th, under the name Miss Morrin, Nurse Trayner was working the long night shift.

A. Yes.

Q. And that would have commenced on Sunday 29th and gone over into the morning of June 30th?

A. Yes.

Q. And would cover the time of the onset of Woodcock's symptoms and then Woodcock's subsequent death in that shift.

A. All right.





CC.14

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A. Yes.

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Q So, she would be paid for it

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again but wouldn't work it?

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A. Yes.

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THE COMMISSIONER: I am sorry, what  
do you do on education day, do you go and be educated?

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THE WITNESS: It may have been one of  
her team leader workshop days that I spoke of  
yesterday or it may have been education on another  
subject.

10

11

THE COMMISSIONER: But you have to go  
and be educated somewhere, it isn't just one of those  
days that you have a holiday?

12

13

14

THE WITNESS: No, no, it is not a  
holiday, it's real, paid for, learning.

15

16

MR. SHANAHAN: Q Would you be in the  
Hospital?

17

A. Likely.

18

Q Likely.

19

A. Not exclusively.

20

Q Not exclusively, all right. Now,  
if I can give you a date and time of death just to  
start this off. Baby Velasquez on August 24th at  
three in the morning starts to get ill and at 4:25  
in the morning he dies. Now, on the previous sheet

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Q Now, on the weekend that she is off then from June 30th, as the day would start, the day shift, through to July 6th, are you aware that during that period of time there are in fact no deaths that we are concerned with here in our Commission?

A I have to go with your chart, I don't have one.

Q All right. The next period of time that there is significant time off for Trayner appears around August 25th, if you can locate that. It is well into those. Do you have that located?

A Yes.

Q First of all, just to get clear when she is off. There is a notation for Wednesday the 27th of August, she was on long days and then there seems to be written in "ill".

A Yes.

Q Do you take it from that then that in fact she wasn't working?

A Yes.

Q Scheduled to work but was sick?

A Yes.

Q And the following day, Thursday the 28th, is the notation "Ed", which I take it to be education day?







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it would appear that Nurse Trayner would have worked  
the long night of Saturday the 23rd?

A. Yes.

Q. And that would take her then  
through to the time period covered by Baby Velasquez?

A. I think I got myself confused.  
When did Velasquez die?

Q. He died 4:25 on August 24th.

A. Yes.

THE COMMISSIONER: 4:25 a.m.

MR. SHANAHAN: I'm sorry?

THE COMMISSIONER: 4:25 a.m.

MR. SHANAHAN: That's right.

Q. So, she had been on that shift  
and then she would be off for the time period we have  
set out all the following week from the 25th over to  
the 31st. Am I right?

A. Including the 24th.

THE COMMISSIONER: Could I just ask  
what "off" means? I know it is not off, would she  
be ill?

THE WITNESS: Well, probably if it  
is written off it means that she exchanged an off  
day from somewhere else.

THE COMMISSIONER: Oh, I see.







CC.16

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MR. SHANAHAN: Q And then on the following week, September 1st to September 7th, in all of those columns - well, in many of them up to the 5th is the notation "V", which would be vacation?

A Yes.

Q And then there is two slash marks which seems to indicate that on the 6th and 7th she didn't work?

A Yes.

Q You understand around this time that, actually, I think it was August 29th, that Phyllis Trayner was married?

A Yes.

Q And these were part of the times that she was taking off with respect to that marriage?

A Yes.

Q All right. Turn the page then to the following week, September 8th to the 14th. Again, she seems to be off the whole week, although, there is a notation of 16 hours for pay?

A That's for stat. holidays which she did not work.

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Q. Statutory holiday, so she  
wouldn't have worked there either?

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A. No.

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Q. Coming through on the  
following week, September 15th to September 21st,  
once again we have vacation?.

7

A. Yes.

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11

Q. And finally two days when she  
didn't work. Coming through to the following week  
she would commence again on long nights the night  
of September 24th?

12

A. Yes.

13

14

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Q. She went back again, the  
last shift she would have worked would have covered  
the death of Baby Velasquez that I have just taken  
you through on the 24th at night?

16

A. Yes.

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Q. I put to you that there was  
a death, I believe an eleven-year old girl by the  
name of Heyworth, at 8:30 in the morning of September  
2nd. However we might categorize Heyworth, what the  
medical opinion has been about Heyworth, the cause of  
death of what category people put her in, we agree that  
on that day Phyllis Trayner wasn't on?

23

A. On September 2nd.

24

25





1  
DD2 2 Q. I think we have covered that  
3 and she would be off?

4 A. Right.

5 Q. With that death aside, I put  
6 to you that the next death we have on our list is  
7 that of Baby Gage at four in the morning on  
8 September 25th; and as you went through these  
9 records with me Phyllis Trayner, her first shift  
10 back is the long night that would commence on the  
11 24th and would go over then past the midnight hour  
into the morning of the 25th?

12 A. Yes.

13 Q. So she would have been on  
14 then for the death of Baby Gage?

15 A. Yes.

16 Q. So as I would summarize that  
17 roughly three and a half weeks, Baby Velasquez dies  
18 on the last shift before she goes off; there is the  
19 death of Heyworth, an eleven-year old, on September  
20 2nd, and then on the first shift back the death of  
Baby Gage; am I right?

21 A. I have to accept your chart  
22 again.

23 Q. I have tried to take you  
24 through it. I realize I am asking you for an opinion,  
25







DD3

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but I have taken you through it as far as I can here.

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A. Yes.

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Q. Mr. Hunt put to you the numerical odds over the months here were rather startling and put to you that they were more than coincidence. I suppose if we look at it on the other side of the same coin, at the time Phyllis Trayner is off, a significant period of time here she is off, and you see how the death on the very last shift that she is off and the death on the very first shift that she is back on again. I put to you again that that is really a startling coincidence.

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A. Yes.

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MR. SHANAHAN: If I might just have one moment, Mr. Commissioner. Mr. Commissioner, I have no more questions, but I would just like in fairness, and I am acting for the Lombardo baby, I would like to -- on this one I am begin fed, I take no credit for this. While I was asking questions Miss Cronk was looking through the Lombardo file and advises me that it sets out in that exhibit that in fact the Mandal dose orders were 12 doses only, and that the last dose Baby Lombardo was to get from Mandal was on December 20th, three days before she died, and those doctor's orders are on page 86 and they confirm





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that they are only 12 doses at 4 doses a day daily starting December 17th. Dr. Hastreiter says that he feels, and Dr. Kauffman I think, she was given a dose by IV roughly 30 to 60 minutes before death, so Mandal would not be in issue there, and that is what my question was based on.

Thank you.

THE COMMISSIONER: Thank you, Mr. Shanahan.

Yes, Ms. Symes.

RE-EXAMINATION BY MS. SYMES:

Q. Miss Costello, just a few questions. First of all have you reviewed the WIN sheets for 5A?

A. Yes.

Q. And can you inform us whose team Susan Nelles was on on 5A?

A. Carol Nicholson.

Q. And can you tell us whose team Phyllis Trayner was on?

A. Patty Wigmore's.

Q. At any time during 5A's existence up until March 31, 1980, was Susan Nelles and Phyllis Trayner ever on the same team?

A. No.





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Q. Ms. Cronk has kindly supplied us with the WIN sheets for 4A, after the move. I believe this is the first WIN sheet, a very faint copy.

A. I will try.

Q. Is there an indication of Phyllis Trayner as a team leader?

A. Yes, she is designated as an acting team leader.

Q. And when is that?

A. It is the same functions as a team leader.

Q. When, when is the date?

A. I'm sorry, when is that, it is March 31, 1980.

Q. And perhaps I will ask you to look at the same set of documents, and could you please <sup>pick</sup> out when from these WIN sheets it shows that Susan Nelles joined the so-called Trayner team?

A. June 16, 1980; I guess the first day she worked on the team was ~~June~~ 18th.

Q. 1980?

A. Yes.

THE COMMISSIONER: The first time she was on the Trayner team?







DD6

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THE WITNESS: Yes.

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MS. CRONK: I'm sorry, was that  
June 16th or June 18th?

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THE WITNESS: It is the 18th, because  
that is the first day in the week she worked.

7

MS. SYMES: Q. That is the WIN  
sheet you are looking at for the week of June 16th --

8

A. Yes.

9

Q. -- is that right?

10

A. Yes.

11

12

Q. And the first day on that  
week that they worked together is?

13

A. June 18th.

14

15

MS. SYMES: Mr. Commissioner, could  
these be the next exhibit, I don't think they have  
been marked as an exhibit.

16

17

THE COMMISSIONER: Are they the WIN  
sheets for 4A?

18

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MS. SYMES: Mr. Commissioner, they  
are the WIN sheets for 5A.

20

THE COMMISSIONER: Yes, all right.

21

MS. SYMES: And then they are the  
WIN sheets for 4A.

22

23

THE COMMISSIONER: And that is 4A from --  
the 1st of May to when?

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DD7

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MS. SYMES: From March 31st until --

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THE COMMISSIONER: March 31st, 1st

4

of April, I guess.

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MS. SYMES: The 1st is the first

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day of their week, sir.

7

THE COMMISSIONER: Yes. When is the

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first day? I thought it was the 30th of April; it  
was the 1st of April, was it, that they moved?

9

MS. SYMES: Yes, sir.

10

THE COMMISSIONER: I'm sorry. Could

11

I just ask you what is the first recorded day on the  
WIN sheets for 4A?

12

MS. SYMES: It is March 31st.

13

THE COMMISSIONER: All right, March

14

31st until when?

15

MS. SYMES: The last one is June 22,

16

1980 in that bundle.

17

THE COMMISSIONER: And the WIN

18

sheets for 5A I take it that doesn't really matter.

19

What number are we at? Exhibit 338 for 5A and

20

Exhibit 339 for 4A.

21

--- EXHIBIT NO. 338: WIN Sheets for Ward 5A.

22

--- EXHIBIT NO. 339: WIN Sheets for Ward 4A, March  
31 to June 22, 1980.

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MS. SYMES: Q. Both Mr. Hunt, at

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pages 1541 through to 1543, and Mr. Tobias today asked

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Costello  
re.ex. (Symes)

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you questions with respect to team nursing, with respect to the role of team leaders and the role of nurses with respect to giving patient care and medications.

I want to ask you some questions in that area. First of all I want you to assume that this is not an arrest situation; that is, the questions that I am going to ask you are about a perfectly normal situation, not in the time of an emergency. Miss Costello, in an ordinary situation does the nurse responsible for the care of the child, that is, let us take a simple example, an RN assigned to a particular patient, does she give the medications for that patient?

A. Yes, she does.

Q. And I gather that during her shift that Registered Nurse could ask for the help of another nurse for a lunch break where she goes on coffee?

A. Yes, she could.

Q. And similarly I guess that nurse could ask for help if she were extremely busy?

A. Yes, she could.

Q. In terms of the way the patient care has been set up, is it essential that the





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nurse who is assigned to that particular patient  
knows what medications have been given to her  
patient?

A. It is.

Q. You had what is called the  
team concept of nursing, is that true?

A. Yes, it is.

Q. And I gather that in your  
version of team nursing the nurse in charge of the  
team was responsible for the nursing care given to  
patients by members of her team?

A. Yes.

Q. So I now just want to ask you  
about your side, 4B. On 4B could the team leader  
help to give patient care to the nurses who were on  
the team?

A. Yes, she could.

Q. You have been asked questions  
that the Wards 4A and 4B are physically located side  
by side.

A. Yes.

Q. Did the two nursing teams  
operate independently?

A. Yes, they did.

Q. We have heard, and the







Costello  
re.ex. (Symes)

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Commissioner asked you questions with respect to  
an arrest situation.

A. Yes.

Q. And I gather that everyone  
goes to help in an arrest situation?

A. Yes.

Q. But normally was the nursing  
for 4B done by the 4B nurses?

A. Yes, it was.

Q. That is the nurses who were  
assigned to 4B for that particular night?

A. Yes.

Q. Would it be usual for a  
team leader on 4A to give any patient care to a  
patient on 4B?

A. Yes.

Q. It was usual?

A. For a team leader on 4A to  
give -- would it be usual or unusual, I am getting  
lost.

THE COMMISSIONER: Usual was the  
question.

MS. SYMES: Q. Would a team leader  
on 4A give patient care to a patient on 4B?

A. No.





DD11

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THE COMMISSIONER: It is unusual?

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THE WITNESS: Unusual.

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THE COMMISSIONER: How unusual?

5

THE WITNESS: Unless she were re-  
quested or unless it was something like taking someone  
to the bathroom when he asked for it and she happened  
to be beside him or something like that, it was  
unusual.

9

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11

MS. SYMES: Q. Would it be usual  
for a team leader on 4A to give medications to a  
patient on 4B?

12

A. Yes, it would.

13

THE COMMISSIONER: I am sorry, which  
was that, usual or unusual?

14

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MS. SYMES: Q. I am asking you  
would it be usual. Let me ask it a different way.  
Would a team leader on 4A give medications to a  
patient on 4B?

18

A. No.

19

20

THE COMMISSIONER: I am sorry,  
you said it would be usual for her to do it but she  
wouldn't do it, so that leaves us an option.

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THE WITNESS: The team leader on  
4A would not give medication to a patient on 4B.

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MS. SYMES: Q. Maybe we are getting





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towards the end of the day. Now let's take another nurse. Would a Registered Nurse on 4A give patient care to a patient on 4B?

A. No.

Q. Again not talking about an arrest situation or anything, would a nurse on 4A give medications to a patient on 4B?

A. No.

THE COMMISSIONER: When you say no, is it forbidden or is it just unusual? I am going to bring those words usual or unusual, but I want you to think about it before you answer. Supposing a nurse on 4A were asked, or perhaps were asked to relieve a nurse on 4B, would that be unusual or improper?

THE WITNESS: It would be unusual, it would not be improper.

THE COMMISSIONER: I suppose the nurse on 4A would have her own children to look after?

THE WITNESS: Yes.

THE COMMISSIONER: A team leader on 4A might or might not have her own patients.

THE WITNESS: Whether or not she had her own patients, she had her own functions.

THE COMMISSIONER: Yes. She is





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supposed to be looking after 4A?

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THE WITNESS: Yes.

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THE COMMISSIONER: And 4B?

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THE WITNESS: Yes.

6

THE COMMISSIONER: It is going to  
sound like a self-serving question with a self-serving  
answer. The amount of work to be done as team leader  
on 4A, how much of the twelve hours would that  
occupy normally?

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A. 12 hours minus whatever  
break times she could manage to get.

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Q. Is that similarly true for  
nurses, that is, a nurse on 4A, is she more or less fully  
occupied during her 12 hours to carry out the functions  
assigned to her?

8

A. Yes.

9

10

11

Q. Now, if a nurse on 4B wanted  
relief either to go to the toilet, to have coffee  
or to have lunch, what team of nurses would relieve  
her?

12

A. 4B.

13

14

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Q. If, while on relief, that is,  
she is at lunch or she went to the toilet or  
something like that, if, during that period of time,  
the relief nurse gave either patient care or medica-  
tion to the patient, what is her responsibility to  
the nurse that was assigned to that patient?

18

A. To report to her what she did.

19

20

THE COMMISSIONER: Well, ordinarily  
of course she would not do anything of the sort?

21

22

23

THE WITNESS: If something came due  
she might. Probably not the bathroom, but if it  
were lunch break she probably would.

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THE COMMISSIONER: It might well

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be something that would be written on the chart right  
by the baby's bed, would it?

THE WITNESS: Yes, it could be.

MS. SYMES: Q. Now, you have told  
us that it is not normal or it is usual, sorry, that --

THE COMMISSIONER: Sorry, which is  
it, usual or unusual? I do not think on Thursday  
afternoon, and this I say with great respect to  
Mrs. Costello, that she can distinguish between  
usual and unusual, so I think we had better use  
some other term.

MS. SYMES: Q. Yes. You said that  
relief for a nurse on 4B would come from her team?

A. Yes.

Q. If, for whatever reason, relief  
for a 4B nurse came from a member of the 4A team --

A. Yes.

Q. -- just happened to be  
available, let us say, and the only one available,  
if the nurse relieving from 4A gave patient care or  
medication to the 4B patient, what was her responsi-  
bility?

A. To report to the nurse for  
whom she was relieving.

Q. Can you tell us why this





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reporting, whether it be a 4B nurse relieving or  
a 4A nurse relieving, why is the reporting done?

A. One reason would be to prevent  
duplication.

Q. Duplication of what?

A. Of the care or the medication,  
so that the nurse would know what was done and  
would not do it again when she came back from break.

Q. Similarly, if a nurse on  
4B got very busy and was unable to give a medication  
and asked another nurse to give it for her, what  
is the responsibility of the relieving nurse then?

A. To give it and record it, and  
I guess to report if she somehow did not or something  
went wrong, like the baby vomited or refused.

Q. So essentially, can I sum up  
that if anyone gives patient care, especially  
medications, to a patient that is not assigned to  
her, that she must report to the nurse assigned  
that the care has been given?

A. Yes.

Q. Now, in the Atlanta Report --  
Mr. Commissioner, I am just going to ask about the  
portion of the Atlanta Report. Would it be  
convenient to take a break now?







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THE COMMISSIONER: Yes, certainly.

3

How long do you think you will be?

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MS. SYMES: I will be quite brief,

5

sir. I have just one more area. I certainly hope

6

I can do it within 7 minutes, 10 minutes.

7

THE COMMISSIONER: Yes, all right.

8

How do things look with you, Ms. Cronk.

9

MS. CRONK: I will be the rest of

10

the afternoon, sir.

11

THE COMMISSIONER: Well, the sun is

12

going down later and later.

13

MS. CRONK: And I know you are

14

going to remind me that I suggested we start early,

15

but there you are.

16

THE COMMISSIONER. Well, I was

17

thinking of making it 20 minutes because apparently

18

our cart does not arrive, but it will be only 15

19

minutes because of partly your fault, but mainly

20

Miss Cronk's fault. So we will come back at 10 to

21

4:00.

22

---Short recess.

23

---Upon resuming.

24

MS. SYMES: Q. Miss Costello, I

25

was asking you then about team leading, and it was

26

hopefully leading to something that was mentioned

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EE5 1  
2 in the Atlanta Report. On page 27 of the Atlanta  
3 Report, which essentially is towards the conclusion  
4 of the Atlanta Report, the Atlanta authors talk  
5 about a hypothesis, a hypothesis if the epidemic  
6 was the result of intentional acts, then there are  
7 several noteworthy patterns in the series of crimes  
8 committed.

9 I believe that Mr. Hunt yesterday  
10 read to you what is on page 28, and that is what  
11 are the characteristics or markers of who the  
12 Atlanta Report consider most suspect if the epidemic  
13 period was as a result of a series of intentional  
14 acts. Using the same assumptions, that is, if the  
15 deaths were the result of intentional acts, I want  
16 to ask you about deaths solely on 4B, that is your  
17 particular ward. If the deaths, then, were the  
18 result of an intentional act and we looked at the  
19 Atlanta assumption, could a nurse from 4A go over  
20 to 4B and give an unauthorized medication to a  
21 patient on 4B; is it possible?

22 A. It is possible but it would be  
23 visible.

24 Q. If that nurse ---

25 THE COMMISSIONER: Just a moment.  
Possible, but it would be visible by whom?





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THE WITNESS: It would be unusual that a nurse from 4A would be giving a medication at all on 4A, so it would be evident that she were, and if it were not one that someone had asked her to give, it really would be visible.

THE COMMISSIONER: Visible, but what I asked is to whom?

THE WITNESS: 4B staff.

THE COMMISSIONER: If they were in the room?

THE WITNESS: Yes, if they were in the room or the medication room, yes, depending where they were.

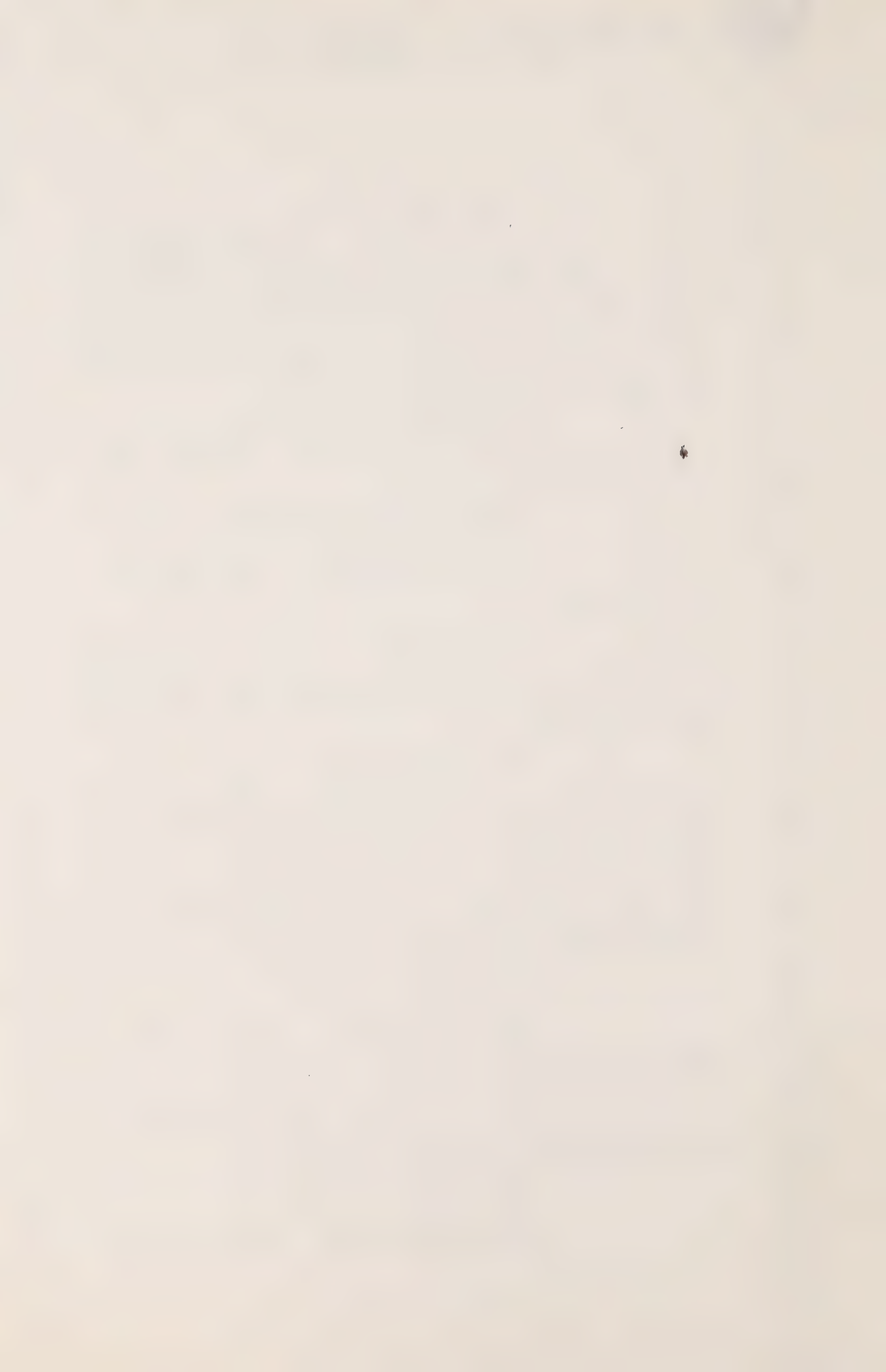
THE COMMISSIONER: Well, a nurse from 4A, and I am not suggesting this happened, could get medicine from 4A, could go down to any room where there was no nurse in attendance because nurses do not have to be in attendance, do they?

THE WITNESS: No.

THE COMMISSIONER: Well, I am really just asking it would be visible to whom? It would be visible to anybody who happened to be watching and who happened to be there?

THE WITNESS: Yes.

THE COMMISSIONER: But if no one







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were there?

THE WITNESS: No one would see it.

MS. SYMES: Q. Miss Costello,  
looking at the diagram, if the nurse from 4A were  
to take the medication out of the 4A medication  
cupboard, she would have to pass by the nursing  
station in order to get to the rooms on 4B?

A. Yes, she would.

Q. And we have got a plan of that  
area; is it relatively open?

A. Yes, it is.

Q. Now, you say that the front  
of that area is used by -- you did not say it was  
the nerve centre but you said it was the clerical  
centre of the ward?

A. Yes, it is.

Q. And that behind there was  
where the nurses did their charting and the doctors  
did their charting?

A. Yes.

Q. Would there normally be  
people in one of those two areas?

A. Usually there would be.

Q. Now, again, if a nurse from  
4A were to come over to 4B and give an unauthorized







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medication, if she were seen, what would be the reaction of the 4B nurses?

A. Surprise and ask her what she is doing.

Q. If a nurse on 4A were planning an intentional act, that is to give an unauthorized medication to a patient on 4B, what kind of a chance is she taking that her act would be undetected?

A. Mr. Grange's idea that no one would be in the vicinity to see her would be the only way that she could do it undetected.

THE COMMISSIONER: We must be realistic, Ms. Symes. If someone were planning to do that, she would be unlikely to go where she is likely to be seen; would that not make sense?

MS. SYMES: But Mr. Commissioner, in order to give the unauthorized medication to anyone on 4B --

THE COMMISSIONER: Yes.

MS. SYMES: -- she would have to go into an area ---

THE COMMISSIONER: Well, that is the real question. Is there anything suspicious about a 4A nurse passing by the nurses station heading into the 4B area; would that be suspicious?





1  
2 THE WITNESS: No, because we shared  
3 some utility rooms.

4 THE COMMISSIONER: Well, that is it.  
5 It is only if she went into -- would there be anything  
6 suspicious about her going in to look at a child in  
7 4B?

8 THE WITNESS: No.

9 THE COMMISSIONER: Well, it is only  
10 if she was seen to be giving medicine to the child  
11 that somebody might -- and I think to be realistic,  
12 Ms. Symes, if this were a deliberate overdose,  
13 whoever administered it would make efforts not to  
be seen; does that not seem reasonable?

14 MS. SYMES: Yes, it does, sir,  
15 but I think ---

16 THE COMMISSIONER: Unless there was  
a death wish or something.

17 MS. SYMES: Well, yes, sir, but  
18 what I want to explore with this witness is exactly  
19 what chance was she running of being detected.

20 THE COMMISSIONER: Well, she was  
21 running, as I understand it, no chance of just  
22 going into Ward 4B because for one thing the treatment  
23 room for both wards is there, is it not?

24 THE WITNESS: Yes.  
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THE COMMISSIONER: And it is not --  
sorry, I am going to bring up this terrible word,  
usual or unusual, but it would not be unusual for  
a 4A nurse to be going into 4B or for a 4B nurse  
going into 4A, would it?

THE WITNESS: For the service rooms,  
no, it would not.

THE COMMISSIONER: Well, it would  
not startle anybody to see that?

THE WITNESS: No.

THE COMMISSIONER: What would startle  
people presumably is if they went in to a baby and  
administered some medicine for a baby who was not  
under their care?

THE WITNESS: Yes, it would.

THE COMMISSIONER: That is what  
would be startling?

THE WITNESS: Yes.

THE COMMISSIONER: Do you accept  
that?

MS. SYMES: Yes, sir, exactly.

THE COMMISSIONER: But you were  
saying if a nurse were to go in, if a 4A nurse were  
to go into 4B ---

MS. SYMES: And give an







1  
2 unauthorized medication, sir.

3 THE COMMISSIONER: Yes.

4 MS. SYMES: Yes, and that is the  
5 question I asked: what risk was she running of  
6 being detected.

7 THE COMMISSIONER: Well, she runs  
8 no risk until she administers the medicine; is  
9 that not right?

10 MS. SYMES: Exactly.

11 THE COMMISSIONER: And that is if  
12 she is seen doing that, but her going down is not  
13 unusual.

14 MS. SYMES: No.

15 THE COMMISSIONER: And going into  
16 the room is not unusual.

17 MS. SYMES: No.

18 THE COMMISSIONER: And Mr. Young has  
19 something he wants to add to this.

20 MR. YOUNG: Mr. Commissioner, I  
21 hesitate to add to your comments because they seem  
22 rather complete and quite obvious, but I would  
23 point out that Ms. Symes was putting to the witness  
24 that a nurse would have to pass by the front desk  
25 of the ward, and looking at Exhibit 304, it appears  
to me that that nurse could very easily go down





1  
2 the side stairs, the stairs adjacent to Room 425,  
3 go along and then come up adjacent to Room 437.

4 THE COMMISSIONER: That, I think,  
5 would be more suspicious.

6 MR. YOUNG: I agree, unless of  
7 course the cafeteria was down there and people  
8 normally came up other stairs. But the other  
9 point I would make is there is a washroom in Room  
10 429. That appears to be the only washroom on the  
11 sketch I have, and the nurses would be passing by  
12 the front desk anyway, and finally, Mr. Commissioner,  
I thought the evidence of ---

13 THE COMMISSIONER: Room 429 has  
14 a washroom. They are too delicate -- oh yes, they  
15 do mention it here.

16 MR. YOUNG: Yes, they do. They are  
17 not quite that delicate. Finally, Mr. Commissioner,  
18 I point out it is my recollection that this witness  
19 did not work evenings and it would be difficult,  
20 in fact, I am not sure she is the right witness  
to really put these questions to.

21 THE COMMISSIONER: No, but she  
22 worked in the ward, so she would be able to see  
23 whether people ---

24 MR. YOUNG: Of course. Well, we  
25





1  
2 have been through the ward too, Mr. Commissioner.  
3 We could answer those questions just as competently.

4 THE COMMISSIONER: Well, it really  
5 was not the witness. It was just a question that  
6 Miss Symes was putting seemed to indicate that it  
7 would be dangerous for anyone with these evil  
8 intents to go by the nurses station, and I had  
9 some reservations about that and I think correctly.  
10 That is not dangerous at all.

11 MS. SYMES: No. My question,  
12 sir, was if a nurse from 4A with evil intentions  
13 went and gave an unauthorized medication to a  
14 patient on 4B, what chance was she running of  
being detected?

15 A. A fairly high chance because  
16 there were nurses working on 4B all the time who  
17 could see her.

18 Q. Now, that is once. If she  
19 went nine times for the nine deaths on 4B?

20 MS. CRONK: Seven.

21 MS. SYMES: I apologize. Have I  
counted incorrectly?

22 MS. CRONK: Yes, seven.

23 MS. SYMES: Q.I counted nine. Seven.

24 A. That would be questioned,  
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seen and questioned.

Q. In particular, some of the babies that died on 4B died in Room 431, and I would like to turn you to two of them, first of all, Hines, which is Volume 32A, Tab 14 at pages 118 and 119. Hines dies in the early hours of Sunday, March 8th, and so I am showing you the sheet, then, that starts Saturday, March 7th.

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First of all, on that day what room  
was Hines in?

A. 431.

Q. And at night was he also in 431?

A. Yes, he was.

Q. And how many other babies were  
in 431?

A. Four other babies.

Q. And that night how many nurses  
were assigned to babies in that room, how many  
different nurses?

A. Two different nurses.

Q. And if you turn to a different  
night which is Pacsai.

THE COMMISSIONER: I'm sorry, 431?

MS. SYMES: 431, sir.

THE COMMISSIONER: Oh, yes. Miss Frise  
has four and Miss Reaper has one?

MS. SYMES: Q. Is that correct, Ms.  
Costello?

A. Yes.

Q. So, there are two nurses in  
that room and there are, would you say, five patients?

A. Yes.

Q. Let's take another night, for





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example, the night of Pacsai's death. That particular  
night is recorded 126/127 of the same tab.

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THE COMMISSIONER: 126?

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MS. SYMES: 127.

6

Q First of all, what room is  
Pacsai in?

7

A 431.

8

Q And how many children are in  
Room 431 that night?

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THE COMMISSIONER: I'm sorry?

11

MS. SYMES: Pacsai's name is spelt  
incorrectly.

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THE WITNESS: Yes, it is. There are  
four.

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THE COMMISSIONER: Room 431 is what he  
is in?

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MS. SYMES: Yes, sir.

17

Q How many babies in total are in  
Room 431?

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A Four.

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Q And that night how many nurses  
are in Room 431, how many nurses are assigned to  
patients in 431?

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THE COMMISSIONER: I am sorry, I'm  
getting lost. You say there were four in Room 431?

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MS. SYMES: Yes.

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THE COMMISSIONER: During the day?

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MS. SYMES: Yes.

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THE COMMISSIONER: Oh, yes, I see, it  
is a repetition.

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MS. SYMES: Q Ms. Lyons then has how  
many of them in 431, how many patients in 431?

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A. Three.

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Q. Three. And Ms. Nelles then has  
one patient, Pacsai, in Room 431?

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A. Yes.

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Q. Okay. If then there were two  
nurses assigned to patients in that particular room  
and, in addition, that is of course the room that is  
immediately adjacent to the nursing station, again  
assuming that the nurse from 4A were to come to that  
room, 431, to administer an unauthorized medication  
to one of the babies in that room, what's her chance,  
what chance was she running of detection?

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A. High chance.

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Q. Mr. Hunt and Mr. Percival asked  
you questions arising out of the meeting that you had  
with Police Officer Warr on March 23rd, 1981, in  
the south boardroom - this is on page 1615 to 1617,  
and in Mr. Percival's questions -- I'm sorry, I will







FF. 4

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just restrict myself to Mr. Hunt's questions with  
respect to that.

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First of all, at any time during that  
meeting with the police officer on March 23rd were  
either you or Ms. Radojewski asked your opinion about  
possible suspects?

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A. No.

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Q. Now, you weren't interviewed  
again by the police I gather until June 17th of 1982?

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A. That's right.

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Q. At any time in the passing  
that went on between you and police officers in your  
assisting them to get people to come to the inter-  
views, did any police officer ever ask your opinion  
about possible suspects?

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A. No.

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Q. At any time from March 23rd,  
1981 forward, did you have anything concrete based  
on your own observations, either visually or hearing,  
to share with the police first as to the cause of  
death of the four children that were under dispute?

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A. No, I didn't.

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Q. Did you have anything concrete  
to share with the police as to who might have been  
suspicious?





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A. No.

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THE COMMISSIONER: I'm glad that you answered "no" to those because had you answered yes we would have had to have started again with every counsel in the room.

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THE WITNESS: Maybe even arrest me.

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MS. SYMES: Q In your cross-examination by Mr. Percival yesterday at page - starting at page 1692, Mr. Percival asked you whether or not you had said this statement, and these are his words:

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"'That evening at Liz' house I felt there was a murderer and at the meeting I couldn't look at those two nurses'."

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And you answered:

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"Yes."

And then he asked you, carrying on at page 1693 -- oh, I'm sorry. What was the basis of your feeling?

20

A In relation to that statement?

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Q In relation to that statement?

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A The only basis that I had was the information and the assumptions, both of which came to me when I was in the meeting on March 23rd





FF.6

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2 afternoon with Sergeant Warr and the other people.

3 Q On 1694 Mr. Percival asked you:

4 "Well, why would you name two out of  
5 the four or five if it was solely  
6 based upon what Sergeant Warr had  
7 told you? Why wouldn't you name all  
8 five of them; 'I can't look all five  
of them in the eye.'"

9 I'm not sure if that is part of his question or part  
10 of your answer? But it is then marked as your answer:

11 "I didn't see all five of them there."

12 Miss Costello, if at the meeting on  
13 March 23rd at Liz Radojewski's all five of the  
14 Trayner team had been sitting in a row across the  
15 room from you, would you have been able to look at  
(2) 16 any of them in the eye?

17 MS. CRONK: I'm sorry, sir, I have to  
18 get to my feet on that one. That calls for pure  
19 speculation on the part of the witness. There can't  
be any possible factual foundation for an answer.

20 MR. BROWN: We have had a lot of  
21 speculation in this Commission.

22 THE COMMISSIONER: Well, all right,  
23 let me put the question this way. Did you at that  
24 time feel that any suspicion you had applied equally  
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to all five members of the team or did they apply particularly to - don't answer this question until I hear the terrible screams - apply particularly to Susan Nelles and Phyllis Trayner?

THE WITNESS: I had not specified those individuals or any individuals in my mind.

THE COMMISSIONER: Well, you see, the problem that has been raised is that you mentioned two names.

THE WITNESS: Yes.

THE COMMISSIONER: And it was put to you, why just two, why not five or three or four or seventeen or whatever number you want to have? All I'm asking you now is, for the best answer you can give, and you may not be able to give me an answer at all, did you feel more strongly with respect to those two than you did with respect to the other three or indeed any other nurses or nursing assistants anywhere in the world?

MS. SYMES: I'm sorry, I didn't hear the last question?

THE COMMISSIONER: I said anywhere in the world and that may have been a little frivolous.

MS. SYMES: Could you ask anywhere on the team, sir?







FF.8

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THE COMMISSIONER: Anywhere in Ward 4A

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or 4B teams?

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MS. JACKMAN: Mr. Commissioner?

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THE COMMISSIONER: Yes.

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MS. JACKMAN: I have a problem with

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that question because I didn't cross-examine

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Ms. Costello about that particular statement. I think

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if the question is going to be put to her she should

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be asked to distinguish between registered nurses

and registered nursing assistants.

11

THE COMMISSIONER: Well, that's

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contained in the question because there are two RNA's

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and three RN's on the team, isn't that correct?

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MS. JACKMAN: Yes, that's correct.

15

THE COMMISSIONER: All right. You

know the names of all of them?

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THE WITNESS: Yes, I do.

17

THE COMMISSIONER: All right. Now,

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did you feel more strongly, less able to look in the

19

eye, if you want to put it that way, the two whose

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names were mentioned than you did the other three?

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THE WITNESS: No, I would not.

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THE COMMISSIONER: You wouldn't feel

any differently?

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THE WITNESS: No.

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THE COMMISSIONER: Yes, all right.

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MS. SYMES: Those are my questions,

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Mr. Commissioner.

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THE COMMISSIONER: Yes, all right,  
thank you. Miss Cronk?

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MS. CRONK: Thank you, sir.

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RE-DIRECT EXAMINATION BY MS. CRONK:

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Q Ms. Costello, I am in some

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confusion on a number of matters and I'm hoping that

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you can help me. Can we deal first with the very

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last series of questions that were put to you by

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Ms. Symes and then by the Commissioner.

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As I understand what you have just  
said, it is your evidence that if all five members of  
Phyllis Trayner's nursing team had been present at  
Elizabeth Radojewski's house that night you would not  
have been able to distinguish in your own degree of  
discomfort between any of them. Do I have that  
correctly?

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A That could indicate I wouldn't

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even know which one was which one's name, it wasn't

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that bad. But I would have been uncomfortable with

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all of them because of what I had had in the afternoon

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and also it was what I would divulge. as well as what

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would I see in them because I could not divulge to

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them that I was aware that there was an investigation.

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Q Ms. Costello, in your own mind,  
bearing in mind that you came to that meeting that  
night at Elizabeth Radojewski's house after you had  
attended a meeting that afternoon with Sergeant Warr  
of the Metropolitan Toronto Police, was your own  
discomfort in looking, you have told us, Phyllis  
Trayner and Susan Nelles in the eye, was that related  
in any way to the fact that they were registered  
nurses on Phyllis Trayner's team as opposed to being  
registered nursing assistants?

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A I think that made it a stronger  
feeling, yes.

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Q And did it not therefore make  
it a stronger feeling towards those two individuals  
than it would for example towards Marianna Christie  
and Janet Brownless who were registered nursing  
assistants?

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A Yes, it would.

Q And if Marianna Christie and  
Janet Brownless had been sitting before you in that  
room that night can you now say before the  
Commissioner that you would have had the same degree  
of discomfort looking those two individuals in the  
eye as you would Phyllis Trayner and Susan Nelles?







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A. No, from the point of view of someone who would give intravenous medications, the RN's would be more dominant in my mind. From my point of view of discomfort that I would disclose anything to them it would be equal.

Q. Exactly. And would that apply as well to Sui Scott who was a registered nurse, a member of that team?

A. Yes.

Q. But you have told us previously that you don't recall Sui Scott being present at that meeting?

A. I do not.

Q. All right. And I suppose or can we at least go this far together that if Sui Scott had been there you can't now with any degree of accuracy predict what your reaction would have been to her that evening?

A. No, I can't.

THE COMMISSIONER: However, we have had evidence that she was there.

THE WITNESS: I know she was there but I don't recall.

MS. CRONK: I'm aware of that, sir.

THE COMMISSIONER: Well, I would like





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to give you just a chance if you can to reconcile what you just said to Miss Cronk what you said a minute ago to me. I don't mind if you change your mind on something but did I just not make myself clear, I guess that's the trouble.

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THE WITNESS: When you spoke to me I guess I was thinking that I was uncomfortable with all of that team but she reminds me that I would be aware and was aware that generally intravenous medications are given by RN's.

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THE COMMISSIONER: Well, if they are given unauthorized, does it make the slightest bit of difference whether they are RN's or RNA's?

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THE WITNESS: No, but that could go into a big long discussion that RNA's would be less likely to give them and some of the questioning this morning, I think by Mr. Olah, was saying, wouldn't it be very unusual to see an RNA carrying digoxin, wouldn't it be unusual to see her administering this medication?

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THE COMMISSIONER: You told us ~~it~~ would be unusual to see anyone from 4A giving medicine to anybody in 4B?

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THE WITNESS: Yes.

THE COMMISSIONER: So, what difference





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would it make? What difference would it make whether  
it was an RNA or an RN?

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THE WITNESS: It would be unusual to  
see an RNA ever giving medicine anyway.

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THE COMMISSIONER: It would be unusual  
to see an RN from 4A giving it to 4B, you said that  
earlier to Miss Symes.

8

THE WITNESS: It would be even more  
unusual for an RNA to give it.

10

THE COMMISSIONER: Well, I suppose  
what we are trying to do, you are a Registered Nurse,  
a Head Nurse and we are trying to make a detective  
out of you. I think that's the problem and that is  
where you are having most of your difficulty.

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All right. Yes, go ahead.

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MS. CRONK: May I, sir, on that  
note and I am conscious of the time. I am also  
conscious of perhaps the error I made yesterday  
referring to 9:30 this morning, I'll see what I can do.

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THE COMMISSIONER: No, but you didn't  
realize how much trouble you were going to have with  
the Commissioner.

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MS. CRONK: Q. Ms. Costello, as best  
as you can, and I recognize that it is difficult  
because a great deal of time has passed since March







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23rd, 1981, but as best as you can recall it sitting  
here today, whether it was logical or not, whether  
it today bears the scrutiny of logic, in your own  
mind that night at Elizabeth Radojewski's house were  
you drawing a distinction in your mind between  
registered nurses and registered nursing assistants  
when you were reacting to the presence of Phyllis  
Trayner and Susan Nelles in that room?







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A. I think so; but the other factor that comes into that, as I explained yesterday to somebody, the position that those two people that I had difficulty with were sitting directly in front of me, like Mr. Lamek, and no RNAs or anyone from that team were in a position where I would need to worry about looking at them.

Q. I understand your evidence in that regard, Miss Costello, and I have understood you this afternoon to say just a few moments ago that in part that reaction, that distinction between Registered Nurses and Registered Nursing Assistants, flowed in your own mind because of the fact that Registered Nurses were authorized under certain circumstances to administer medications intravenously on the cardiology wards; is that correct?

A. Yes.

Q. That was not true of Registered Nursing Assistants?

A. No, it was not.

Q. And the Commissioner's point of course is well taken, and that is if someone were setting out deliberately to do harm to these children he or she would scarcely have regard to Hospital policy; that is logical enough, isn't it?





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A. Yes. I would like to add it would be much more suspect to see an RNA doing it, whatever the Hospital policy.

Q. And that flows from the fact that Registered Nursing Assistants were not to administer medications under any circumstances, intravenously?

A. Yes.

Q. I think I understand. I am confused to a degree as well concerning some of the answers that you gave to Miss Symes concerning team nursing.

Am I correct as a general proposition, Miss Costello, that when a particular patient was assigned any given nurse, and it was not a constant nursing care assignment, the nurse involved was not required to remain in the room consistently with that patient at all times during the shift?

A. She was not.

Q. She was not?

A. No.

Q. And during her absence from the room, am I correct that there would be nothing to prevent other nurses, be it a nurse from 4A or a nurse from 4B, from entering the room if only to





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observe the child or indeed to look for the nurse  
who was no longer there?

A. No, there wouldn't.

Q. That would not be unusual at  
all, would it?

A. No.

Q. And indeed it happened  
frequently on those wards?

A. Yes.

Q. As well, am I correct there  
would be nothing unusual in observing a 4A nurse in  
a 4B patient room if she was asked to go there?

A. No.

Q. There would be nothing  
unusual in seeing a 4A nurse in a 4B patient room  
if she was relieving a 4B nurse?

A. No, but she likely -- it  
would be least likely that she would be relieving  
there unless she was relieving on the ward that night.

Q. And that happened?

A. Yes.

Q. Very often 4A nurses were  
posted as relief nurses to 4B for an entire long night  
shift?

A. Yes.







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Q. And on occasion you told me several days ago now that if a nurse, be it a 4B nurse or a 4A nurse, was in a particular patient's room and wanted to be spelled for just a few minutes she could hail a nurse passing in the hall and ask her to step in for her?

A. Yes.

Q. And I would assume, I think correctly, there would be no distinction drawn between a 4A and a 4B nurse in those circumstances?

A. No, not likely.

Q. A 4B nurse could hail a 4A nurse to come in and step in for her for a few moments?

A. Yes.

Q. And that would not be unusual?

A. No.

Q. Many of those women were colleagues, they are friends as well?

A. Yes.

Q. As you yourself have pointed out there were situations where 4A nurses were assigned for a full 12-hour night shift to 4B?

A. Yes.

Q. Miss Symes drew your attention to the assignment book entries for 4B for the night





Costello  
re.dr. (Cronk)

GG5 1  
2 of Kevin Pacsai's death. Can we just quickly take  
3 a look at that again by way of illustration. He  
4 died on March 12th, about ten o'clock in the  
5 morning; the entries in which I am interested are  
6 the long night shift on March 11th. This is page  
7 126, 127, Miss Costello. Do you have that?

8 A. Yes.

9 Q. As Miss Symes quite accurately  
10 pointed out it appears that Kevin Pacsai was  
11 assigned to Miss Susan Nelles --

12 A. I'm sorry, I have opened to  
13 4A. What tab, please?

14 Q. 4B, Tab 14, page 126, 127.  
15 Do you have that?

16 A. Yes.

17 Q. Could you look at the  
18 night shift nurses, please.

19 A. Yes.

20 Q. As Miss Symes correctly  
21 pointed out it appears that Kevin Pacsai was assigned  
22 to Miss Susan Nelles that night?

23 A. Yes.

24 Q. And he was in Room 431?

25 A. Yes.

Q. And there were three other





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patients in that room assigned to Mrs. Lyons.

A. Yes.

Q. Mrs. Lyons however had two other patients in Room 433 that same evening.

A. Yes.

Q. And Miss Nelles had four other patients in Room 437 that night.

A. Yes.

Q. Am I correct that the assignment of five patients in one night to Miss Nelles is a rather heavy load?

A. It is hard to assess now. It is possible 437 had older children. It is possible it was not a heavy workload in that room.

Q. It is certainly a lot of children, five in one night compared to some of the other assignments.

A. Miss Reaper has the same, and flicking through here I don't think it is terribly unusual, but it would be heavy to have five infants.

Q. Am I correct as well that Miss Nelles, by virtue of the responsibilities that she had that night, of necessity would have to be out of Room 431 frequently to observe the children in Room 437 and to take care of them as she was required





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to do that night?

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A. Yes.

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Q. She would have to be?

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A. Yes.

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Q. And similarly Mrs. Lyons who had the other three children in Room 431 would have to be out of that room to take care of the two children that she had responsibility for in Room 433 that night?

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A. Yes, she would.

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Q. Am I correct that there was no rule in place that would require one of Miss Nelles or Mrs. Lyons to remain in the room while the other was absent?

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A. No.

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Q. They could both leave at the same time?

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A. Yes.

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Q. And if they did so, there would be nothing to prevent another nurse unobserved from entering that room?

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A. Taking into consideration that they were not seen accidentally by someone in the nursing station, the corridor or anywhere, through the windows.

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Q. Miss Costello, to be fair, can we simply go this far. You cannot tell the Commission I suggest to you that someone, another nurse, be it a 4A nurse or a 4B nurse, could not have entered that room in the absence of Mrs. Lyons or Miss Nelles not being detected? You can't say one way or the other, can you?

A. No, I can't.

Q. And it is certainly possible?

A. Yes, it is.

Q. Thank you. May we look for a moment at the charts, Miss Costello, that Mr. Hunt reviewed with you. You will remember that I am sure for some time to come and certainly today. One of the results of that exercise demonstrates that in the entire nine-month period of time with which we are concerned Susan Nelles worked 55 long nights.

A. Yes.

Q. And of those 55 nights she worked 32 of them at the same time as Phyllis Trayner was working the same long night shifts, do I have that correctly?

A. Yes.

Q. What I would like to do with you in much the same way, although I hope having





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regard to the time, in a much abbreviated way, is to do precisely the same exercise with reference to Sui Scott, who was the other Registered Nurse who was a member of Phyllis Trayner's team; is that correct?

A. Yes.

Q. Miss Costello, we have prepared, by we, the Commission staff, a summary sheet taken from the Ward 4A WIN sheets for the period June 29, 1980 through to March 22, 1981, of the long night shifts worked by Sui Scott and as well of the long night shifts worked by her at the same time with Phyllis Trayner working the same long night shifts. If time permitted I would ask you to go through the Ward 4A WIN sheets and confirm for me that the numbers recorded on the summary are accurate. I would ask you for the moment to assume that they are, rather than going through that exercise.

If those numbers be accurate, I suggest to you that it is apparent that Miss Scott worked more long nights in this nine-month period than did either Phyllis Trayner or Susan Nelles; she appears to have worked 56.

A. Yes.

THE COMMISSIONER: This is a fine





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thing, but you haven't got the name Sui Scott anywhere on it.

MS. CRONK: It should be on the top of the page, sir.

THE COMMISSIONER: Oh, it was taken off, was it?

MS. CRONK: I think it was simply never put on.

THE COMMISSIONER: Sui Scott, I am going to add that name to it.

MS. CRONK: Q. And if as I suggest the number is an accurate count of the long nights that she worked, she worked more long nights than any other Registered Nurse, obviously, on Phyllis Trayner's team?

A. Yes, she did.

Q. And if the number of long nights that she worked with Phyllis Trayner have been accurately counted, and they are indeed 36, it appears that she worked more long nights in this period accompanied by Phyllis Trayner than did Susan Nelles; is that correct?

A. Yes.

Q. And we know, Miss Costello, and I ask you to accept this from me because we had







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it in prior evidence about which there is no reason that you should be aware, but we know from the authors of the Atlanta Report that during this nine-month period when Sui Scott was working on these wards, there were 21 Category A and Category B deaths. Now Category A and Category B as defined by the authors of the Atlanta Report, if I can put it this generally, were suspicious deaths. Now of those 21 when Sui Scott was on duty, only one took place during the day. Are you with me so far?

A. When she was on duty on nights only one took place during the day.

Q. <sup>When</sup> /She was on duty at all, during this nine-month period, only one of those 21 deaths took place other than at night.

A. Yes.

Q. So I suggest to you that if those numbers be correct, in the 56 long night shifts that Sui Scott worked during this nine-month period of time, there were 20 deaths at night when she was on duty, and I suggest to you further that of the 36 nights when she worked with Phyllis Trayner there were 20 deaths at night.

A. So you are counting that all these deaths happened when Sui Scott was not on a day off, are you? I am assuming that as well.





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Q. All I am asking you to do is  
to accept for the moment my numbers.

A. I am accepting your numbers  
but --

Q. The Atlanta Report authors  
have said that there were 21 suspicious deaths while  
Sui Scott was on duty, was working, and only one of  
them took place during the day.

A. Yes. I think what I am not  
hearing you say, did some number of those remaining  
20 occur on Sui Scott's night off; that is what I  
have no figures for.

Q. There were 20 while she was  
on duty at night.

A. All right.

Q. And if that number is correct,  
and we know that Phyllis Trayner was there for all  
of these suspicious deaths that took place at night,  
I am suggesting to you that out of 36 nights worked  
with Phyllis Trayner there were 20 deaths when Sui  
Scott was also on the ward.

A. Right.

Q. And I ask you to accept those  
numbers from me.

A. Yes.





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Q. And I suggest to you, Miss Costello, that if we were to compare Sui Scott's association with these deaths at night while working with Phyllis Trayner, with the association of Susan Nelles in the same circumstances, they are very similar. With Susan Nelles you may remember it was 21 and with Sui Scott I am suggesting it was 20. Do you have any reason at all to quarrel with that?

A. No, I don't.

Q. I would have been astounded if you had and I thank you for that.

Could I ask you very briefly as well if you could to examine a number of these children that did die during this nine-month period, and I suggest to you at a time when Sui Scott --

THE COMMISSIONER: I'm sorry, shall we make this summary an exhibit, 340?

MS. CRONK: I'm sorry, sir. 340?

THE COMMISSIONER: 340.

--- EXHIBIT NO. 340: Summary of 4A WIN sheets, June 29, 1980 to March 22, 1981. Re Sui Scott.

MS. CRONK: Q. I am going to suggest to you further, Miss Costello, that there were a number of these suspicious deaths, again using the term loosely, that occurred when Sui Scott --







Costello  
re.dr. (Cronk)

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THE COMMISSIONER: I notice Mr.

Rosenberg has moved to the front --

MS. CRONK: Q. -- when Sui Scott was not on duty. He may be prepared to move back.

A. I am losing the question with all these comments, I am sorry.

Q. Could I ask you please, if you would, to look to the 4A WIN sheets. Would you start there. I would like you to turn if you would please to the WIN sheet for December 22, 1980. Do you have that for 4A?

A. Yes.

Q. I am going to suggest to you, Miss Costello, and I ask you to correct me if I am wrong, that Sui Scott was not on duty on the long night shift of December 22nd?

A. No, she was not.

Q. You recall that Stephanie Lombardo died on December 23, 1980 in the small hours of the morning?

A. I have to accept your date.

Q. Could I ask you as well to look for the 4A WIN sheet from March 21st -- I'm sorry, could you start with March 20, 1981. Do you have that?

A. Yes, I do.







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Q. Am I correct in suggesting

that Sui Scott was not on duty on long night on  
March 20, 1981, the long night shift before the  
death of Allana Miller, which occurred in the early  
hours of the morning?

A. No, she was not.

Q. And on the same page could  
you look -- I'm sorry, the next page, could you look  
to the long night duty nurses on Ward 4A on March  
21st. Do you recall that Justin Cook died on March  
22, 1981, at approximately five o'clock in the  
morning? I am going to suggest to you that Sui Scott  
was not on duty on the long night shift on March  
21st; is that correct?

A. No, she was not.

Q. In fact she was not on duty  
at all that weekend at nights?

A. No, not on nights.

THE COMMISSIONER: I'm sorry, I have  
her on for the long day.

MS. CRONK: I said at night, sir.

THE COMMISSIONER: Oh, yes, she was  
on duty.

MS. CRONK: She was not on duty the  
Friday night and she was not on duty the Saturday





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night and we know that those times coincide with  
the deaths respectively of Allana Miller and Justin  
Cook.





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I would like to turn to a different matter, if I may, Miss Costello, briefly. As I have understood your evidence over the last several days, you learned personally of the arrest of Susan Nelles from Anne Evans at the Hospital for Sick Children; is that correct?

A. Yes, I did.

Q. And I think you told Ms. Symes that Anne Evans came to the ward and she told you and she told Elizabeth Radojewski that Susan Nelles had been arrested?

A. Yes, she did.

Q. Do you recall what time of day that was on March 25th?

A. Early afternoon. I cannot be very specific. I am estimating around 1:00, 1:30.

Q. Did she speak to both Elizabeth Radojewski and yourself at the same time?

A. Yes, she did.

Q. Was anyone else there?

A. No.

Q. Did I understand you correctly to say that she had been to see you earlier in the day and had told you that Susan Nelles







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was going to be arrested?

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A. Yes, she did.

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Q. What time of the day was that?

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A. I am estimating about 11:00.

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Q. And where were you at the

7

time?

8

A. In Liz and my office on 4A/B

9

ward.

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Q. Did she tell Liz Radojewski,

11

then, at the same time that Susan Nelles was going  
to be arrested?

12

A. Yes, she did.

13

Q. Was there anyone present

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other than Elizabeth Radojewski and yourself when

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Mrs. Evans came to tell you that?

16

A. No.

17

Q. Had you known prior to that,

18

Miss Costello, that Susan Nelles was going to be  
arrested?

19

A. No, I had not.

20

Q. Do you know when Miss Evans

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first learned that Susan Nelles was going to be

22

arrested?

23

A. I remember her, as I recall

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it indicating that the police intended to, when they

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2 left the Hospital on the night before that, intended  
3 to or had a warrant to or sought a warrant to arrest  
4 Susan. I do not know whether Anne knew that the  
5 night before or gained that knowledge that morning.

6 Q. Did she tell you that,  
7 that the police had intended when they left the  
8 Hospital on the Tuesday evening to arrest Susan  
9 Nelles?

10 A. Yes.

11 Q. Did she tell you how she knew  
12 that?

13 A. No.

14 Q. Did you yourself see the  
15 police at any point on Tuesday, March 24th?

16 A. No.

17 Q. Did you learn from any other  
18 source on March 24th that an arrest might be  
19 occurring the next day or within the next several  
20 days?

21 A. No, I did not.

22 Q. As I understand it, you did,  
23 however, work the eight-hour day shift on March 24th;  
24 do I have that correctly?

25 A. Yes.

Q. Did you, over the course of





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that day, speak to anyone from the nursing staff or the Hospital administration during which it was suggested that a particular individual was suspect and that an arrest might occur?

A. No, I did not.

Q. Did you have any idea before 11 o'clock on March 25th when you spoke to Mrs. Evans that an arrest was going to be made in respect of these deaths?

A. No, I did not.

Q. I take it, am I correct, that it was at that time that Mrs. Evans intimated to you that the police the evening before when they left the Hospital had intended to make an arrest?

A. Yes, it was.

Q. And was it your understanding that they had intended to arrest Susan Nelles?

A. Yes.

Q. You told Ms. Forster during the course of her cross-examination, or at least the first cross-examination, that during this nine-month period digoxin and other drugs were kept on the open shelves in the medication rooms and were stored alphabetically; do I have that correctly?

A. Yes.







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Q. Was digoxin stored under D or was it stored under L for lanoxin?

A. I think D. I cannot swear to that.

Q. What about Lasix? We know that the other trade name for Lasix was furosemide. Was it stored under L for Lasix or F for furosemide?

A. I cannot be sure. I would have looked for it under L.

Q. You have no recollection one way or the other?

A. I cannot be positive.

Q. What is your best recollection to date?

A. I would look for Lasix under L and digoxin under D.

Q. What about propranolol, was it stored under P or I for Inderal?

A. The liquid was kept in the refrigerator and the tablets were prescription, so they were not alphabetically stored.

Q. You say liquid. Are you referring to a form of elixir?

A. Yes.

Q. Did it as well come in ampules







1  
2 or vials?

3 A. Yes, it did.

4 Q. Where were they kept?

5 A. They would be on the shelving  
6 and I cannot tell you whether it was P or I.

7 Q. It could have been either,  
8 as best as you can recall?

9 A. Yes.

10 Q. When these drugs were placed  
11 on whichever they were, whatever kind of drug at  
12 issue was placed on these shelves, were they kept  
13 in a box?

14 A. The ampules were in a little  
15 box, yes.

16 Q. The ampules were not kept in  
17 a loose form?

18 A. No.

19 Q. So there would be several  
20 ampules of the same type of drug?

21 A. Yes.

22 Q. And were they kept in -- well,  
23 I am sorry, Mr. Registrar, could you show me  
24 Exhibit 225, please?

25 You will remember, Miss Costello,  
that we looked at this before. This is a white form





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of box that holds a number of ampules. Are these the kinds of boxes in which drugs were stored on the open shelves or was it a larger box still?

A. It could be this kind and it could be a more cubic shaped box with the ampules standing up.

Q. If it was a more cubic shaped box with the ampules standing up, would it hold more ampules?

A. It could.

Q. This is a box that has been marked as an exhibit, Miss Costello. On the outside it is labelled 10 ampules pediatric lanoxin. The box is white and it has a white and black label on it. Are these the types of boxes that were stored on the open shelves?

A. I think so for lanoxin, yes.

Q. And that, of course, is digoxin by any other name?

A. Yes.

Q. Was the same true of Lasix, did the ampules come in boxes of that kind?

A. I cannot recall.

Q. To the best of your recollection, were ampules of digoxin ever stored other than in a





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box on those open shelves?

A. Are you restricting me now  
to the open shelves only?

Q. Yes, I am.

A. No, I do not think they were.

Q. So that if someone went to  
fetch for any purpose an ampule of digoxin from  
those open shelves, the likelihood, the probability  
was that they would pick up a box with a label saying  
lanoxin on it marked in black and white?

A. Yes.

Q. And that, you think, would  
have been filed under D for digoxin?

A. I think it would because that  
is how we customarily thought of it and gave it,  
but I cannot be sure of that.

Q. Can we go this far together  
that if your recollection is correct, Miss Costello,  
and Lasix was filed under L for Lasix and digoxin  
under D for digoxin, and digoxin was kept in boxes  
of that kind, that the likelihood of a nurse or  
a registered nursing assistant fetching the drug  
for someone else of mistaking an ampule of digoxin  
from one of the digoxin boxes or an ampule of lasix  
was remote?







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A. Yes, and even more so because the label should be read not just grabbed from the box.

Q. Were there similar forms of boxes in which Lasix ampules were kept on the open shelving?

A. I cannot recall what a Lasix box looks like. It is quite possible that it was similar.

Q. Well, to the best of your recollection, were ampules or vials of Lasix ever stored without being in a box in those open shelves, were they ever loose about the shelves?

A. No.

Q. So that if one went to get Lasix again, presumably one would have to get the right box; am I correct?

A. Yes.

Q. There would be a label on the box?

A. Yes.

Q. Presumably one should read before removing the ampule?

A. Yes.

Q. In any event, because the drugs





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were stored alphabetically, it would be kept in  
a different place on the shelf than where one would  
expect to find digoxin?

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A. Yes.

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Q. Would the same be true of  
Inderal?

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A. Would the same be true that  
it would be stored in a different place, yes, it  
would be stored in a different place.

10

11

Q. If we are talking about the  
ampules it would be stored in a box?

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A. Yes.

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Q. And it would be filed  
alphabetically either under I or P, you cannot  
recall which?

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A. Yes.

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Q. Thank you. There were a  
number of other matters raised with you by various  
counsel, Miss Costello, and I will just deal with  
one or two because I am conscious of the time and  
you have been here for several days.

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Do you recall telling Mr. Hunt that  
both Phyllis Trayner and Susan Nelles were sufficiently  
experienced nurses, that you had full competence in  
their abilities; do you recall saying that?





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A. Yes.

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Q. You agreed, as I recall it,  
with Mr. Brown's suggestion to you that Susan Nelles  
was a competent nurse?

5

6

A. Yes.

7

8

Q. You told Ms. Forster that  
you regarded Phyllis Trayner as a competent and  
conscientious nurse?

9

10

A. Yes.

11

12

13

Q. You told me, as I recall it,  
that generally speaking the more experienced nurses  
on Wards 4A/4B were assigned constant nursing care  
duties whenever they were required?

14

15

A. I think there were some  
exceptions to that that I explained to you.

16

17

18

19

20

Q. The exception that you did  
mention to me, as I recall it, was that if it was  
hoped to train a less experienced nurse in constant  
nursing care responsibilities, then she, with the  
more experienced nurse, would be assigned to that  
patient?

21

A. Yes.

22

23

Q. All right. That is the  
exception you are referring to?

24

25

A. Yes.







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Q. As amongst the members of Phyllis Trayner's team, am I correct in assuming that Phyllis Trayner and Susan Nelles were the most experienced nurses on that team?

A. Yes.

Q. If a seriously ill patient were admitted to Room 418 on Ward 4A and Phyllis Trayner's team was on duty, would I be correct that Susan Nelles would be the most likely nurse to be assigned responsibility for that patient unless it was Phyllis Trayner herself?

A. Yes.

Q. And there were occasions when Phyllis Trayner, as the team leader on that team, did have a patient assignment herself?

A. Rather than acting leader, yes.

Q. Yes.

A. Yes.

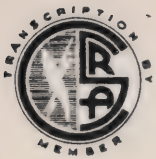
Q. There were times when she had active care for patients?

A. Yes.

Q. And certainly if she did not have active care for patients and did not have a patient assignment on that particular shift, she,







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as the team leader, would be aware of the condition  
of all of the patients on her ward?

3

4

A. Yes, she would be.

5

6

Q. It would be her responsibility  
to be aware of that?

7

A. Yes.

8

Q. And she would be monitoring  
the condition of those most gravely ill?

9

A. Yes.

10

11

Q. She would be watching that  
rather closely?

12

A. Yes.

13

14

Q. You will recall as well,  
Miss Costello, that in your own handwritten notes --  
do you have a copy of them there?

15

16

A. Yes.

17

18

Q. It is Exhibit 309,  
Mr. Commissioner. Just before we turn to that  
matter, if we could, Miss Costello, could I return  
just for a moment --

19

20

A. I am listening.

21

22

Q. Could I return just for a  
moment to the question of when of the circumstances  
under which you learned that Susan Nelles was going  
to be arrested?

23

24

25





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A. Yes.

3

4

Q. Once you learned that from  
Anne Evans, did you tell anyone what you had been  
advised by Mrs. Evans?

5

6

A. I did not.

7

Q. Did you contact Susan Nelles?

8

A. I did not.

9

Q. Did you make any effort to  
contact her?

10

A. No, I did not.

11

12

Q. Did you contact Phyllis  
Trayner?

13

A. No, I did not.

14

Q. Or make any effort to contact  
her?

15

16

A. No, I did not.

17

Q. To your knowledge did  
Mrs. Radojewski attempt to contact Susan Nelles or  
Phyllis Trayner in the interval between when she  
was advised that Susan Nelles was going to be  
arrested and several hours later when she was  
informed that she had in fact been arrested?

18

19

20

21

A. No, she did not that I know of.

22

23

Q. Thank you. Could I ask you  
now to look at your notes, if you will, Exhibit 309.

24

25





1  
2  
3 You will recall that you made, at page 2 of these  
4 notes, a notation about half way down the page in  
5 the middle of the page, indicating -- I am sorry,  
6 it was in the context of having talked about the  
7 continuing deaths over a period of several months.  
8 You recorded that the evening and night supervisors  
9 were aware of the unusual occurrence of most arrests  
10 on one team, that the arrests seemed inexplicable.

11 You then made this note:

12 "Some inter-personal problems, seems  
13 people were concerned about Phyllis'  
14 behaviour."

15 Do you see that passage?

16 A. Yes.

17 Q. And of course you will recall  
18 that your attention was drawn to that by a number  
19 of counsel over the last several days, and in  
20 particular, you were asked by Ms. Forster what  
21 you meant by it; do you recall that?

22 A. Yes, I do.

23 Q. And at Volume 96, at page 1460,  
24 Mr. Commissioner, this is the answer that you gave,  
25 Miss Costello, to that question.

THE COMMISSIONER: I am sorry, 14---?

MS. CRONK: Q. 1460. That passage







1  
2 was read to you and you were then asked what you  
3 meant by that, and your answer was:

4 "A. By then all the nurses were  
5 feeling stressed throughout this  
6 period and more so as the period of  
7 time went on. They were all feeling  
8 very stressed and worried and they  
9 were a little frustrated because  
10 Phyllis asked for most attention and  
11 she got it, and I think they were  
12 pleading for we need some support  
as well."

13 Do you remember that?

14 A. Yes, I do.

15 Q. Do I have it correctly,  
16 Miss Costello, that a great many of the nurses on  
17 both these wards at this time were feeling under  
18 stress because of these increasing arrests?

19 A. Yes.

20 Q. And you have told us a great  
21 deal about the stress that they were feeling and  
22 their attempts to obtain reassurance over the  
weeks and months that followed?

23 A. Yes.

24 Q. And if I suggested to you that  
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some nurses coped with their stress in one way and other nurses coped with it in another way, would you have any difficulty in agreeing with that?

A. No.

Q. Some did it in one fashion and others chose another?

A. That is right.

Q. But all were attempting to deal with it?

A. Yes.

Q. All right. Phyllis Trayner, you have told us, was very vocal in seeking reassurance, and as you described it, she was, in your language, perhaps the most vocal in seeking support, do you recall saying that?

A. Yes, I do.

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BmB.jc

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Q All right. To cope with the stress that was being experienced because of these increased deaths and to seek reassurance, do I have it, would it be fair of me to assume that she talked about these arrests?

A Yes.

Q She talked about them with other nurses?

A Yes.

Q And she did so frequently?

A Yes.

Q And I suggest very frequently?

A Yes.

Q Indeed, isn't it the case, Ms. Costello, that she spoke about them so frequently that other nurses became uncomfortable in discussing them with her?

A I don't think that I have data to answer that with, that was not said to me.

Q Did any of the nursing staff on either 4A or 4B comment to you when these arrests were occurring that one of the aspects of Phyllis Trayner's behaviour that was discomfoting to them was that she seemed a need to talk about these arrests more frequently than they would have liked to?







I.2

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2

THE COMMISSIONER: I'm sorry. Yes?

3

MS. RAE: I suggest that would be

4

hearsay.

5

THE COMMISSIONER: What, the fact that

6

they were complaining about that?

7

MS. RAE: A comment that they made to

8

Ms. Costello.

9

THE COMMISSIONER: Yes, yes, I suppose

10

that would be hearsay. I did in a weak moment  
promise to limit it.

11

MS. CRONK: Well, Mr. Commissioner, if

12

Ms. Costello heard nothing of the matter I intend to

13

leave it there; if she did then I think it properly

14

should be put before you in light of the cross-  
examination.

15

THE COMMISSIONER: Yes, that's fine.

16

It's too late at night for me to exercise what I call

17

my brain on this problem.

18

MS. CRONK: May I put the question to

19

you again.

20

Q. Was it ever suggested to you

21

by any of the nurses, in particular the nurses on

22

Ward 4B, that Phyllis Trayner was talking about

23

these arrests, for whatever reason, so frequently as

24

to constitute some discomfort for the other nurses?

25







I.3

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Was that not in fact a problem?

3

A. I don't recall that being told

4

to me.

5

Q. All right. Then you don't

6

recall hearing of such an incident?

7

THE COMMISSIONER: Thank you, Ms.

8

Costello for that answer.

9

MS. CRONK: Q. And you don't recall

10

A. No.

11

Q. All right, two final matters,

12

Ms. Costello. You told Mr. Hunt at one point

13

yesterday with respect to Kevin Pacsai and other

14

children that you knew of nothing to make you think

15

that the deaths which were occurring at the Hospital

16

were not natural. Did I hear your evidence correctly

17

A. Yes.

18

Q. Can we deal with Kevin Pacsai?

19

It's true, as I understand it, and I would ask you to

20

confirm that this is the case, that Kevin Pacsai's

21

death came as a great surprise to members of the

22

nursing staff on Ward 4B?

23

A. Yes.

24

Q. It was indeed a great shock?

25





II.4

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A. Yes.

3

4

Q. And you have told me that he  
wasn't expected to die when he did?

5

A. Yes.

6

7

8

Q. And you knew those things  
within 24 hours of his death by virtue of having been  
briefed by the nurses who had been there when Kevin  
died when you came into work on March 12th?

9

A. Yes.

10

11

12

13

14

Q. I would like to examine with  
you, Ms. Costello, the nature of the other information  
that was provided to you over the next several days  
with respect to Kevin Pacsai. You knew, I believe  
you have told us that Dr. Schaffer was concerned about  
his elevated potassium levels?

15

A. Yes.

16

17

Q. And you knew that that had  
given rise to a concern about his digoxin levels?

18

19

A. No, I didn't know that within  
the 24 hours.

20

21

22

23

24

25

Q. All right. Well, did I not  
hear you correctly the other day in your evidence  
when you were discussing the matter, you indicated  
that when Dr. Schaffer expressed a concern to you  
concerning Kevin Pacsai's elevated potassium levels,





II.5

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that seemed to give rise to a corresponding concern  
about digoxin?

4

5

6

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A. He may have been talking about  
the interaction of the high potassium level on the  
effect of digoxin on the baby. I took it as a  
theoretical exploration which probably was done by  
testing the baby.

8

9

10

11

Q. Let's try to be a bit more  
specific if we can, Ms. Costello. You knew that  
Dr. Schaffer was concerned because of the potassium  
levels, is that correct?

12

13

14

A. Yes.

Q. And you knew that Dr. Fowler  
was involved, he was concerned and was looking at  
the matter?

15

16

17

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19

20

A. Yes.

Q. All right. And was it not  
also the case that once Dr. Fowler became concerned  
you also became aware that there might be a problem  
because of the interrelationship between potassium  
and digoxin that there might be a problem with Kevin  
Pacsai's digoxin?

21

22

23

24

25

A. Yes.

Q. And you knew that?

A. Yes, I think what I am trying







II.6

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to distinguish with you is I knew there could be a  
problem but on that day I did not know anything about  
Kevin Pacsai's digoxin level results.

5

Q No, I understand that, that is  
not what I asked you.

6

7

A All right.

8

9

Q When you spoke to Dr. Fowler  
you told me it was March 12th later in the day after  
Kevin Pacsai had died?

10

A Yes.

11

12

13

Q And all I am suggesting to you  
is, you knew by that time that the elevated potassium  
at least had appeared to trigger a concern about his  
digoxin?

14

A Yes.

15

16

Q Do I have that correctly?

17

A Yes.

18

Q All right. And you knew that  
on March 12th the day the child died?

19

A Yes.

20

21

Q You then went on holidays, as  
I understand it, and you were not back in the  
Hospital until Monday, March 23rd, is that correct?

22

A Yes.

23

24

25

Q On March 22nd, however, you have





II.7

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4

told us that you had a telephone discussion with  
Liz Radojewski and part of that discussion concerned  
Kevin Pacsai?

5

A. Yes.

6

7

Q. All right. And she told you  
for example during that telephone conversation that  
there was a coroner's investigation into his death?

8

A. Yes.

9

10

11

Q. And she told you that Kevin  
Pacsai had a digoxin level of 25 nanograms, did she  
not?

12

A. I think she did.

13

14

Q. All right. Well, in fact, that  
is in your notes, isn't it?

15

A. Okay.

16

17

Q. Isn't it?  
A. I don't know if the number is  
there, it could be.

18

Q. Exhibit 309, last page, page 4.

19

A. Yes, it is.

20

Q. And she told you Sunday night  
that Kevin Pacsai had a level of 25?

21

A. Yes.

22

23

24

Q. At least that was your  
recollection then and that was very close to the  
event, wasn't it?

25





II.8

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2

A. Yes.

3

4

Q. All right. That was a new  
piece of information you hadn't known previously?

5

A. Yes, it was.

6

Q. All right. And that was an  
extraordinary number I take it?

7

A. Shocking, extraordinary, yes.

8

Q. Shocking?

9

A. Yes.

10

11

Q. You had never heard of a number  
that high in a patient at The Hospital for Sick  
Children before?

12

13

A. No.

14

Q. Certainly not one that had been  
on your ward?

15

16

A. No.

17

18

Q. In fact, you told Mr. Percival  
yesterday that you had regarded a digoxin level of 3  
as being of concern?

19

A. Yes.

20

Q. This then must have been  
extremely upsetting to you when you learned of it?

21

22

A. Yes.

23

24

Q. Did you lend your mind at that  
time as to how a level that high could have resulted  
in Kevin Pacsai?

25





II.9

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A. I worried about how he would  
have got digoxin, yes, obviously.

4

5

6

Q Well, more than that. You knew  
Kevin Pacsai had been prescribed digoxin in the  
Hospital, didn't you?

7

8

9

A. Yes.

10

11

12

Q You told me that you had checked  
into the medication as a result of Dr. Schaffer's  
inquiry about the potassium?

13

14

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A. Yes.

Q So, you knew he had been on  
digoxin?

A. Yes.







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Q. All right. Did you lend your mind as to how that child could have had a level of 25 nanograms?

A. Yes.

Q. And how do you think that might have happened?

A. I didn't come to a conclusion, it was a shocking, impossible situation.

Q. Except that you knew it had happened because Elizabeth Radojewski told you that, didn't she?

A. Yes.

Q. Well, did you lend your mind to one of the possible explanations being that there was some foul play involved in the death of that child?

A. No, I didn't.

Q. That did not cross your mind that Sunday night when you heard of that level?

A. No. Error and, I don't know what happened, no, I don't recall having any awareness in my mind at that time of foul play in relation to that. It maybe seems logical now but I did not think of it at that time. I didn't even think necessarily at that time that that was what the Coroner was looking for.





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II2.2

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THE COMMISSIONER: I'm sorry, I missed that, I didn't hear that.

3

4

THE WITNESS: I assumed the Coroner was investigating this death and that part of that was the high digoxin level but I didn't really connect the pieces of this to think that the Coroner was looking for foul play, never mind me.

5

6

7

8

MS. CRONK: Q. Well, can we be just a little bit clearer about it, Miss Costello. You didn't assume that the Coroner was looking at this child's death, you knew that, didn't you?

9

10

11

12

A. Yes.

13

Q. Sunday night, Elizabeth Radojewski had told you that?

14

15

A. Yes.

16

Q. And the entire circumstances surrounding this child's death had by that time become even more unusual than they had been before you went on holidays, didn't they?

17

18

19

A. Yes, they had.

20

Q. Was it the first Coroner's investigation that you had been aware of concerning a patient associated with 4B?

21

22

A. Yes.

23

Q. All right. And you are telling

24

25





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II2.3

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us that it did not at that time, whether it is  
logical or not, it did not at that time cross your  
mind that there might have been foul play involved  
in that child's death?

5

A. No, it did not.

6

Q. Well, did it occur to you,  
Miss Costello, that his death might not have been  
natural?

8

9

A. Is that saying the same thing?

10

Q. I'm not sure. You told Mr.  
Hunt that it never crossed your mind that any of  
these deaths were not caused by natural means and I  
am asking you now, in light of that information on  
Kevin Pacsai, did it not cross your mind that this  
child's death might not have been naturally caused?

14

15

16

17

18

A. No, it didn't. I am not as  
good on legal language as you people but when I  
interpret not naturally caused it's the same thing  
as you saying foul play.

19

20

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THE COMMISSIONER: I'm sorry,  
unnaturally caused would be the same thing as foul  
play, not naturally caused.

THE WITNESS: All right. There's  
good grammar here.

THE COMMISSIONER: Well, it is not  
quite grammar, it is negatives that seem to disturb







II2.4

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you.

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THE WITNESS: All right.

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A. Yes, I did.

Q. And you learned specifically that they were investigating Kevin Pacsai's death of one of four under investigation?

A. Yes.

Q. And you learned it wasn't the Coroner but it was the Homicide Division of the Metropolitan Toronto Police Force?

A. Yes, I did.

Q. In fact, you met with Sergeant Warr and you talked about the child's death?

A. We didn't too much talking.

Q. Well, it was talked about at the meeting?

A. Yes.

Q. All right. And you were told at that meeting that, as I understand it, Justin Cook





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II2.5

2

and Allana Miller had high digoxin levels?

3

A. Yes.

4

Q. You had been told the night  
before by Elizabeth Radojewski that they had died?

5

A. Yes.

6

7

Q. All right. So now you are  
hearing that two more children had high digoxin levels.

8

A. Yes.

9

10

Q. And didn't you in fact hear  
it about Janice Estrella at that meeting?

11

A. Yes.

12

13

Q. So now there are four with  
high digoxin levels and you were told that by  
Sergeant Warr?

14

A. Yes.

15

16

Q. All right. That must have  
been enormous shock to you as well?

17

A. It was.

18

19

20

21

22

Q. And then later that same day,  
as I understand it, when you were at Elizabeth  
Radojewski's house you received some other information  
that the only dose of digoxin that Kevin Pacsai was  
supposed to have received had in fact been double-  
checked by two nurses?

23

A. Yes.

24

25





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II2.6

2

Q. You were told that?

3

A. Yes.

4

Q. And that was confirmation that  
hadn't been previously provided to you but it was  
that night by Susan Nelles?

6

A. Yes.

7

Q. And Mary Jean Halpenny was  
there, and you have told us that she confirmed that  
she did check it?

9

10

A. Yes.

11

Q. And didn't you learn something  
else new that night, that Susan Nelles specifically  
recalled that she had used 1 cc. tuberculin syringe  
to administer that dose?

12

13

14

A. Yes.

15

Q. And she therefore thought and  
was of the view that she could not have given more  
than the appropriate dose he was to receive?

16

17

18

A. Yes.

19

Q. And didn't that lead you to  
think that if that is the amount that was given it  
didn't account for a 25 nanogram level of digoxin?

20

21

A. It did, of course, and this  
was after I also knew that Homicide were involved.

22

23

Q. Well, that's my point, Miss

24

25







1  
II2.7 2 Costello. Did it not occur to you then at the  
3 meeting in Elizabeth Radojewski's house when you  
4 learned all of that information that that child's  
5 death might not have been caused naturally?

6 A. Yes, it did.

7 Q. All right. And you in your  
8 own mind, were you not then examining possible  
9 explanations as to how the child could have died?  
10 Didn't that have to be going through your mind?

11 A. It's hard to describe that  
12 day. For sure, I was not in a very -- I was not in  
13 a calm state at all, I was shocked and I was horrified  
14 and I was afraid. I don't think that I tried to  
15 evaluate and assess and guess. I think that I have  
16 to agree with you that, yes, I did not think that the  
17 dose of digoxin that he was given at 2100 caused his  
18 death but with so many other facts to deal with and  
19 the state of horror that I was in I didn't analyze.

20 Q. Well, there was a lot of  
21 information provided to you at that time about his  
22 death in particular.

23 A. Yes.

24 Q. And that there had also been  
25 information provided about Justin Cook's death.

A. Yes.







1

II2.8

2

Q. And Allana Miller's death.

3

A. Yes.

4

Q. All right. And once it  
crossed your mind that Kevin Pacsai's death might  
not have been naturally caused, didn't the same  
thought cross your mind with respect to Justin Cook  
and Allana Miller?

8

A. Oh, yes, yes, definitely.

9

Q. And Janice Estrella?

10

A. Yes.

11

Q. And did it occur to you that  
someone might deliberately have caused these children  
to die?

13

A. At that time, yes.

14

Q. All right. And in that  
thought crossing your mind did you lend your mind as  
to who might have been involved in that?

16

17

A. No. No, I didn't specifically  
at that time. I told you that I was aware from having  
done the exercise with the assignment books at the  
meeting in the afternoon what nurses were looking  
after those children and, yes, I was concerned that  
I had to worry about those specific nurses for that  
reason.

18

19

20

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22

23

Q. And that is the very meeting

24

25





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II2.9 2 when you later told the Metropolitan Toronto Police  
3 you had difficulty looking two individual nurses  
4 in the eye?

5 A. Yes.

6 Q. And that was happening the  
7 same night when for the first time you have told us  
8 you began to think those children might not have  
died naturally?

9 A. I began to think it in the  
10 afternoon at the meeting with Sergeant Warr.

11 Q. And it had certainly crossed  
12 your mind Monday evening again?

13 A. Yes.

14 MS. CRONK: May I have your indulgence  
for a moment, sir.

15 Just one other question, Miss  
16 Costello, and I promise I will be complete.

17 Q. In answer to some questions  
18 from Mr. Olah this morning your attention was drawn  
19 to the fact that digoxin on Wards 4A/4B had been  
20 ordered to be locked up on Saturday, March 22nd. Do  
you recall that?

21 A. Yes.

22 Q. Now, I know that you weren't  
23 on duty that weekend, you were just returning from  
24  
25





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II2.10 2 holiday -- I'm sorry, that would have been Saturday,  
3 March 21st.

3

4

A. Yes.

5

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Q. But to the best of your  
knowledge, can you help us as to when the ampoules  
of digoxin were locked up on Ward 4B? Do you know  
what time that night they were locked up?

A. Is anybody going to fight  
with hearsay here, because we have had discussion  
about that.

Q. No, you just give me your  
answer and I will deal with the objections if any  
come.

A. All right. Approximately  
between 2100 and 2200.

Q. And how do you know that?

A. Because the nurses who worked  
that night told me.

Q. And who was that?

A. The most recent one was Bertha  
Bell.

Q. And that is between nine and  
ten o'clock that evening?

A. Yes.

Q. And do you know when the







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digoxin ampoules were locked up on Ward 4A?

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A. I think it was about the  
4 same time, but, no, I have no definite answer on that.

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5

Q. Did you discuss that matter  
6 at any stage with Phyllis Trayner?

6

7

A. No.

7

8

Q. She was the team leader on  
8 duty that night.

9

A. No, I didn't discuss it with  
10 her.

10

11

Q. Did you discuss it with any  
12 of the other nurses who had worked on 4A that night?

12

13

A. No.

13

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MS. CRONK: All right. Thank you  
14 very much, Miss Costello, and thank you for your  
15 assistance over the last several days.

15

16

THE COMMISSIONER: Thank you very  
16 much, Miss Costello, you are free to go and not come  
17 back, and I suggest that you do both. Thank you  
18 very much.

18

19

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Now, Mr. Lamek, you want to tell us  
20 something about next week?

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MR. LAMEK: Nothing that is going to  
22 be any great news to anyone, sir. On Monday the  
23 witness will be Nurse Bell, a team leader on Ward 4B

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who worked opposite to a large extent the Trayner  
team on 4A.

Following Nurse Bell will be Lynn  
Johnstone, the night supervisor.

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M.jc  
JJ

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And she will be followed by Nurse Radojewski the  
Head Nurse on 4A.

THE COMMISSIONER: Yes, all right.

MR. LAMEK: And then that I think will  
take us certainly into next week.

THE COMMISSIONER: Yes, it certainly  
will I would think. All right then, until 10 o'clock  
on Monday.

--- Whereupon at 5:10 p.m. the Hearing adjourned  
until 10:00 a.m., Monday, February 6th, 1984.









